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ABSTRACT

This handbook analyzes problems encountered by school administrators and staff involving school law, student rights, and school legal responsibility. Each section summarizes the relevant county, state, and federal laws and court decisions pertaining to such areas as student disturbances, student medical care, truancy, school security, married and/or pregnant students. rights, alcohol and drug abuse, student transportation, control and custody of evidence, search and seizure, vandalism, interrogation of students, and corporal punishment. This volume is the second edition of the handbook, which was compiled by the Oakland County (Michigan) Prosecutor's Office. In addition to the 28 law-related topics covered in this handbook, appendixes list juvenile court personnel and Oakland County human resources agencies. The final appendix, a teaching unit on juvenile rights designed to appeal to elementary and junior high school students, deals with legal questions often raised by juveniles. /DS

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A PROSECUTOR'S HANDBOOK FOR SCHOOL ADMINISTRATORS

(REVISED)

FROM THE OFFICE OF
L. BROOKS PATTERSON
OAKLAND COUNTY PROSECUTOR
JUNE 28, 1974

REVISED
JUNE 27, 1975

The following Handbook has been prepared by a special research team of the Oakland County Prosecutor's Office. It analyzes over 28 problems that school administrators and staff personnel could face during the course of a school year.

EA 008 348

I N D E X T O H A N D B O O K

I	ACKNOWLEDGEMENT.....	i
II	INTRODUCTION.....	ii
III	INDEX TO TOPICS.....	iii
IV	TOPICS # 1 - 28	1-168
V	APPENDIX I - JUVENILE COURT PERSONNEL LISTINGS - 1975.....	169
VI	APPENDIX II - OAKLAND COUNTY DIRECTORY OF HUMAN RESOURCES.....	176
VII	APPENDIX III - JUVENILE RIGHTS TEACHING UNIT.....	191

"The children now love luxury. They have bad manners, contempt for authority. They show disrespect for their elders, and love chatter in place of exercise.

They no longer rise when elders enter the room.

They contradict their parents, chatter before company, gobble up dainties at the table, cross their legs and tyrannize their teachers."

Socrates, circa 390 B.C.

A C K N O W L E D G E M E N T

The Oakland County Prosecutor's Office wishes to acknowledge the assistance and cooperation of many individuals in the preparation of this Handbook. We appreciate the advice of many Oakland County educators who assisted in the selection of topics to be discussed in this Handbook, as well as offering various viewpoints for our consideration.

In addition, we single out for special recognition the efforts by School-Liaison Officer Peter Gallagher of the Bloomfield Township Police Department for his hard work and research.

Also, for special recognition we gratefully acknowledge the valuable assistance of Terry Thomas, Director, Pupil Services, Oakland Schools, Pontiac, Michigan for his many contributions to the Revised Edition of the Prosecutor's Handbook.

From the staff of the Oakland County Prosecutor's Office, recognition for their efforts is given to Edward Sosnick, Arnold Weiner, Raymond Rukstele, Terry Givens, Sandra Kabboush, Thomas Richards, Michael Silver and Michael Sheldon for their assistance in researching various topics and articles.

Finally, we gratefully acknowledge the services of the dedicated professionals who participated in the Seminar at the Oakland County Courthouse Auditorium the day the Revised Handbook was distributed and discussed.

* * * * *

I N T R O D U C T I O N

Because of the very warm reception extended the first Prosecutor's Handbook for School Administrators, we have now published this revised and updated edition. More than two-thirds of the prior edition has been revised and expanded in accordance with the suggestions and critiques of school administrators who corresponded with my office over the past year.

Again, the following Prosecutor's Handbook for School Administrators (revised) has been developed in response to a real need on the part of school administrators and staff personnel to understand more fully both their responsibilities and rights.

We have set forth in the discussion of the topics the policy of the Oakland County Prosecutor's Office. In no way have we attempted to preempt the reliance that an administrator should place upon the advice received from his local school board attorney on the question of civil liability and procedure.

A review of the revised Handbook will reveal that the subjects, though treated in some depth, are not exhaustively developed. Quite obviously there are many situations which will have to be faced from time to time by the school administrators, and this Handbook, rather than being the specific answer to every question, will preferably serve as a guide.

The Oakland County Prosecutor's Office is mindful of the every increasing permeation of law and court decisions into the functions of the school administrator. We hope that this Handbook will provide some guidance through the legal maze of laws and judicial opinions which continually confront and confuse the dedicated school administrator.

L. BROOKS PATTERSON
PROSECUTING ATTORNEY

INDEX TO TOPICS

TOPIC #		PAGE #
1	JUVENILE COURT PRACTICES, PROCEDURES AND SERVICES	1
2	CHILD NEGLECT AND ABUSE	16
3	SCHOOL INCORRIGIBILITY	23
4	SCHOOL ATTENDANCE AND TRUANCY	25
5	SCHOOL-COURT LIAISON	34
6	SCHOOL-POLICE LIAISON	35
7	CONFIDENTIAL COMMUNICATIONS AND RECORDS	36
8	ALCOHOL	59
9	SMOKING	61
10	STUDENT DRUG USE AND TREATMENT	64
11	CORPORAL PUNISHMENT	92
12	UNAUTHORIZED PERSONNEL	94
13	PRECAUTIONS IN TRANSPORTING STUDENTS	99
14	DISTURBANCES AND CONTENTIONS	102
15	BOMB THREATS	106
16	SCHOOL SECURITY	110

TOPIC #		PAGE #
17	TRAFFIC AND PARKING CONTROL	112
18	MEDICAL CARE OF STUDENTS	114
19	MARRIED AND/OR PREGNANT STUDENTS	116
20	PARENTAL RESPONSIBILITY FOR VANDALISM	120
21	LIABILITY (EXPANDED)	123
22	SEARCH AND SEIZURE	135
23	INTERROGATION OF STUDENTS	148
24	CONTROL AND CUSTODY OF EVIDENCE	152
25	STUDENT'S RIGHTS	154
26	LIABILITY OF SCHOOL OFFICIALS UNDER CIVIL RIGHTS ACT	165
27	AGE OF MAJORITY	167
28	FIRE DRILLS	168

TOPIC #1: JUVENILE COURT PRACTICES, PROCEDURES AND SERVICES

PROBLEM:

What are the practices, procedures and services of the Oakland County Juvenile Court?

DISCUSSION:

I. WHAT IS THE JUVENILE COURT?

The Oakland County Juvenile Court has jurisdiction over children within Oakland County under 17 years of age who are either charged with a traffic violation, or are accused of being delinquent, or whose parents are accused of neglecting them.

When a child is placed under the jurisdiction of the Juvenile Court, the Court is charged with giving such care, guidance and control as the child should have received in his own home. The Court must do that which will be best for the child's welfare and conducive to the best interest of the community.

II. HOW DO CASES COME BEFORE THE JUVENILE COURT?

Complaints are referred to the Court from police, schools, private and public agencies and private citizens of Oakland County. Approximately 70% of all referrals come from police departments, 20% from schools and 10% from other sources such as public and private agencies and individuals including parents who may be having problems with their youngsters.

During 1974, the five highest types of referrals to the Oakland County Juvenile Court are as follows: Burglary - 357; Larceny - 214; Home Truancy - 169; Aggravated Assault - 108; Home Incorrigibility - 106.

III. AS SCHOOL ADMINISTRATORS, WHAT DO YOU DO WHEN YOU SEE INDICATIONS OF SCHOOL TRUANCY, SCHOOL INCORRIGIBILITY, EDUCATIONAL NEGLECT, OR OTHER DELINQUENT ACTS?

After exhausting all of your local school level administrative procedures developed to handle such matters, you should then consider the following procedure for making a referral of the student to the Oakland County Juvenile Court:

A. First, contact either your attendance officer, assistant principal, school-court liaison person, or the police.

B. One of the above individuals should file an "Application for Petition" with the Juvenile Court. This form provides information for the Juvenile Court concerning the allegations. At this point, the Juvenile Court Intake Worker may suggest a referral to Youth Assistance (a volunteer delinquency and neglect prevention program for children). The Application for Petition forms are available at the Court. A sample copy of the Application for Petition is provided at the conclusion of this Topic.

C. If an Application for Petition is filed, the Court will then conduct a cursory preliminary inquiry to determine, based on the Application, whether further action is required.

D. If it appears from that initial preliminary inquiry that jurisdiction should be required, the Court shall then authorize the Petition formally.

E. A Court caseworker is then assigned.

F. An oral interview between the caseworker and the parents will then be arranged by the caseworker. At this interview the parent and the child will be provided with a summons notifying them of a later court date. The caseworker shall also advise them of their rights. The caseworker, during this oral interview, may obtain a social history of the child, but only with the consent of the parents, child, and attorney, if an attorney has been retained.

G. At the first court hearing, usually conducted before a referee, the parents and child will be given an opportunity to make requests and ask questions, such as demand for a jury, request for an attorney, etc.

If the parents and child deny the allegations contained in the Application for Petition, then a contested hearing date (trial) will be set.

IV. WHAT TYPES OF CASES ARE REFERRED TO THE JUVENILE COURT?

A. YOUTH ASSISTANCE CASES:

Many cases are handled without official action of the Juvenile Court. Some are referred to Youth Assistance, a volunteer program for children. Usually, they have not had previous contact with the Court, and there is no official Court record as a result of the contact with Youth Assistance. Every school district in Oakland County has a Youth Assistance program.

The primary purpose of the Youth Assistance program is the prevention of delinquency and neglect. One of the main objectives is to mobilize community interest, skills and forces in behalf of children toward the development of services designed to control, treat, eliminate and prevent delinquency and neglect.

Another objective is to reach the child at an early age so official action of the Juvenile Court will not be necessary.

Professional casework and community organization processes are employed in implementing the program. The program is sponsored by local school districts, local municipalities and the Probate Court. Every school district in Oakland County has access to this pre-court Youth Assistance Program.

A listing of Juvenile Court Youth Assistance Personnel is contained in Appendix I, Page 174.

B. UNOFFICIAL CASES:

Many other cases are closed at the Intake Office of the Court or referred to another appropriate agency for needed services. These also are handled without official action of the Court.

C. OFFICIAL CASES:

Official cases involve the following types of referrals: The delinquent youngsters are those who have been found guilty of violating laws or ordinances of the State or local community, or those who have run away from home, or those who are truant from school, or are incorrigible at home or in school. The neglected youngsters are referred to the Juvenile Court because of

lack of support, or improper care, or bad home environment, or abuse, or abandonment by their parents. In addition, any Oakland County youngster under 17 years of age who receives a traffic violation is referred to the Juvenile Court for a hearing and disposition.

V. WHAT HAPPENS TO A JUVENILE IF HE RECEIVES A TRAFFIC TICKET?

Any youngster living in Oakland County who receives a traffic ticket while under 17 years of age must come to the Juvenile Court for a traffic hearing. Traffic hearings are conducted by a Juvenile Court Referee. The Referee's office is located in the east wing of the Oakland County Service Center, 1200 North Telegraph Road, in Pontiac.

If a ticket is received while the juvenile is driving in another county, the case will be heard in the county of residence unless the ticket is contested. In those cases, the ticket is usually returned to the county of issuance to be scheduled for a hearing.

A. FAILURE TO APPEAR:

Failure to appear at a Traffic Hearing can result in the loss of the juvenile's license or the ability to obtain a license. One additional point will be added to the driving record.

Notice of non-appearance is sent to the Secretary of State who will demand the return of the license, or they may send a policeman to recover it. If the Juvenile did not have a drivers license when he was ticketed, a "hold" will be put on the license. He will be unable to get a license when he applies for it. Neither the suspension of the license nor the inability to obtain

one can be set aside without a Court Appearance.

B. COURT HEARING:

A juvenile must be accompanied by one of his parents, his legal guardian, or an adult authorized as the parent's agent. An attorney may represent the juvenile at the hearing.

At the Court hearing, a youngster need not testify against himself, but if he wants the Referee to consider his side of the story, he may discuss the charges with him. Possible pleas which may be made at the hearing include "responsible", "not responsible", "mute" (you make no statement, but the Court will enter a plea of "not responsible" for you and a contested hearing will be re-scheduled for a future date so witnesses can be present just as if you pleaded "not responsible"), and "nolle contendre" (you agree to the Court taking jurisdiction without legal acknowledgment of guilt).

C. RESULTS OF A COURT HEARING:

The Court may find the youngster "not responsible" for the violation and may "dismiss" the charges. If the Court Referee does find you "responsible" he may:

1. "Warn and dismiss". He finds you "responsible" which would indicate to the Secretary of State that an assessment of points is appropriate but the Referee does not impose an additional penalty.

2. "Probation". This may consist of the Referee restricting or prohibiting your driving for a period of time. He also may require other things of you such as a work detail or home detention.

3. Points are accumulated on your driving record if you are found guilty of the following violations.

Michigan's Traffic Violation Point Schedule:

A. Manslaughter, negligent homicide or other felony resulting from the operation of a motor vehicle..... 6

B. Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs..... 6

C. Failing to stop and disclose identity at the scene of the accident when required by law..... 6

D. Reckless driving..... 6

E. Exceeding the lawful speed limit by more than 15 miles per hour..... 4

F. Ability to operate vehicle impaired by the use of liquor or drugs..... 4

G. Exceeding the lawful speed limit by more than 10 miles per hour but not more than 15 miles per hour..... 3

H. Improper passing or disobeying a traffic signal or stop sign..... 3

I. Exceeding the lawful speed limit by 10 miles per hour or less..... 2

J. All other moving violations including motor vehicle equipment and drivers license violations..... 2

The Court sends a report to the Secretary of State's office in Lansing where state officials assign the appropriate points on your record.

There are certain traffic violations where points are not assigned to your record, for instance, when a case is dismissed, or if you are found guilty of defective equipment, etc.

VI. WHAT HAPPENS AT A PRELIMINARY HEARING AT JUVENILE COURT?

In all cases where a child is in detention, the child must have a preliminary hearing within 48 hours. The purpose of this hearing is to determine (1) whether a petition should be formally authorized, and (2) whether the child should remain in the juvenile facilities or at home until the court date.

The policy of the Oakland County Juvenile Court in those instances when a juvenile has been detained overnight at the Children's Village, is to schedule a preliminary hearing at 1:30 p.m. the next working day.

If a juvenile is detained as a result of findings made during a preliminary hearing and the child is charged with being a delinquent, he has a right to have bond set. But no bond can be set when parents are accused of neglecting a child. Bond is usually not necessary in such cases as school incorrigibility and truancy cases since they are generally not detainable offenses.

VII. WHAT HAPPENS AT A JUVENILE COURT HEARING?

A juvenile is entitled to notice of a pending court hearing 72 hours prior to the hearing. At the court hearing, the juvenile is presumed innocent until proven guilty. If he admits the charges or if

the Court Referee, Judge, or Jury who hears the case finds him guilty of the offense, the Judge will then decide what disposition shall be made.

Dispositional choices include placement in a children's institution or a foster home, placement of the child on probation, or sending the juvenile home with a warning.

VIII. WHAT DECISIONS CAN THE COURT MAKE IF IT TAKES JURISDICTION OVER A CHILD?

In Juvenile Court there is no specific penalty for an offense. The Judge decides what is best for each child. Many youngsters are allowed to go home with their parents and are placed under court supervision, while others are placed in the Children's Village, some at Camp Oakland, foster homes and still others in private or state institutions.

Before deciding, the court often conducts physical and psychological testing.

The court realizes that the child may not be the only one at fault. Therefore, when the court takes jurisdiction over a child, the court can order parents to attend Parent Education Classes.

IX. WHAT IS MEANT BY A WAIVER TO CIRCUIT COURT?

If a youngster 15 years of age or older is charged with committing a very serious offense called a felony, such as murder or breaking and entering, it may be necessary to allow the case to be tried in the adult court. The Prosecuting Attorney may make a request in such cases to the Juvenile Court Judge to have the adult Court try the case. The Probate Judge will then grant a hearing to determine if the interest of the youngster and the public would be served best by granting a waiver of jurisdiction to the criminal court, or by saying the child will be tried in Juvenile Court.

X. WHAT ARE SOME OTHER SERVICES OF THE OAKLAND COUNTY JUVENILE COURT?

A. YOUTH ASSISTANCE: (Described previously)

B. COURT CASEWORK SERVICE:

After the official court hearing, delinquent and neglected juveniles are referred to this area for probation and supervision until termination or dismissal upon satisfactory adjustment. It is the responsibility of this department to carry out the order of the court and to follow the case to a logical conclusion. This involves the use of casework skills in resolving and reducing social breakdown existing within the family structure.

Parent Education Program classes are held for parents of youngsters under jurisdiction of the court. These classes or sessions assist parents to better understand their children and the effect of the parents behavior on their children.

Individual and group therapy sessions are also conducted for youngsters housed at the Children's Village to assist youngsters in improving social functioning and better peer relationships.

C. VOLUNTEER CASE AIDE PROGRAM:

The Court has initiated a Volunteer Case Aide program to assist the caseworker in the handling of youngsters placed on probation. The Caseworker guides and supports the volunteer assigned by the court to work with the youngster on a friendship basis.

The Case Aide program is also used for official Consent cases.

D. FOSTER CARE AND ADOPTIVE SERVICES:

When children are removed from parental custody, many of them are placed in foster homes. The Court seeks to provide a more homelike atmosphere for its wards who do not require institutional placement.

Also the Juvenile Court has started a program to place older delinquent and neglected youngsters in foster homes.

The Adoption Department handles all legal work for any adoption processed in Oakland County. The department has the responsibility to effect placement of permanent wards of the Court, to process direct consent, relatives, stepparent and inter-state adoptions.

E. JUVENILE TRAFFIC CASES:

In 1965, the Michigan Legislature passed Public Acts 41 and 42 establishing the "point system" for juvenile traffic violations which places all traffic cases under official jurisdiction of the Juvenile Court. The Traffic Referee handles the initial screening and hearing of all uncontested traffic cases. All contested cases are heard by the Probate Judge or by a referee he designates. In addition, motor boat violation hearings are handled by the Traffic Referee.

F. PSYCHOLOGICAL CLINIC:

This department provides diagnostic evaluation, treatment and consultation service for official cases and Youth Assistance cases referred to the Juvenile Court. Included in the clinical services are psychological testing, psychotherapy, casework, psychiatric consultation, social group work, liaison with other social agencies and other related clinical functions. In addition, some emergency cases are referred by other county departments.

In addition, the clinic is responsible for conducting in-service training for the entire Juvenile Court staff and also for an on-going training program for students in psychology and social work with accredited universities.

G. CAMP OAKLAND:

Camp Oakland is a private, corporate foundation for court wards and underprivileged children. It is located near Oxford, Michigan approximately 25 miles north of Pontiac.

H. PERSONNEL:

A complete listing of Juvenile Court Personnel is contained in Appendix I.

XI. WHO HAS ACCESS TO JUVENILE COURT RECORDS?

Juvenile Court records are confidential and may only be examined with the Juvenile Court's permission. Such records shall be opened only by order of the court to persons having a legitimate interest.

Michigan Law on this point reads as follows:

"The court shall maintain records of all cases brought before it. Such records shall be open only by order of the court to persons having a legitimate interest. Whenever the court issues an order in respect to payments by a parent under subdivision (e) of section 18 of this chapter, a copy shall be mailed to the department of revenue. Action taken against parents or adults shall not be released for publicity unless such parents or adults are adjudged guilty of contempt of court. The court shall furnish the state department of social welfare with reports of the administration of the juvenile division in such form as shall be recommended by the

Michigan association of probate and juvenile court judges. Copies of such reports shall, upon request, be made available to other state departments by the department of social welfare." MCLA 27A.28; MSA 27.3178(598.28)

Under appropriate circumstances, a school may well have a legitimate interest in viewing a juvenile court record (See Aetna v. Oakland Probate Judge, 50 Mich App 31 (1973). Application should be made to the court for this purpose. This request should clearly set forth the interest of the school in obtaining the information.

XII. CAN A JUVENILE COURT RECORD BE EXPUNGED?

Expungement of a record in Juvenile Court can only be accomplished by means of the Consent Calendar.

Children placed on the Consent Calendar are generally first offenders. They must first admit the charges, and then are usually placed on probation for approximately three to five months. When the child reaches 17 years of age, and if he has had no further court adjudications, his record will then be expunged by the court. To be placed on the Consent Calendar the complainant, prosecuting attorney, parents and child must all consent to it.

Any Intake Officer or Assistant Prosecutor of the Juvenile Division will be able to answer your particular questions with regard to this procedure.

State of Michigan

In the Probate Court for the County of Oakland

Juvenile Division

IN THE MATTER CONCERNING: _____

NAME OF CHILD — DATE OF BIRTH

RESIDENCE — SCHOOL

FATHER'S NAME — RESIDENCE — PHONE NO

STEPMOTHER'S NAME — RESIDENCE — PHONE NO

MOTHER'S NAME — RESIDENCE — PHONE NO

STEPFATHER'S NAME — RESIDENCE — PHONE NO

GUARDIAN'S NAME — RESIDENCE — PHONE NO

Parents' employment telephone number Father _____ Mother _____

I represent that proceedings should be instituted concerning said child _____ within the meaning of Chapter 712A of the Compiled Laws of 1948, as amended, for the reasons in the following complaint:

OFFENSE _____

DATE AND TIME OF OFFENSE _____

WHERE OFFENSE OCCURED _____

I, therefore, request that a petition be authorized and that said child _____ be made _____ ward _____ of the Juvenile Division of the Probate Court and disposition be made as provided in Chapter 712 A of the Compiled Laws of 1948, as amended.

VERIFICATION:

I have read the foregoing and know the contents thereof, and the same is true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true

Date _____ _____ SIGNATURE

_____ ADDRESS AND PHONE

WITNESSES

(Name) (Address) (Phone No.) (Will Testify To)

(Name) (Address) (Phone No.) (Will Testify To)

(Name) (Address) (Phone No.) (Will Testify To)

(Name) (Address) (Phone No.) (Will Testify To)

(Name) (Address) (Phone No.) (Will Testify To)

"Application for Petition"
Form No. 607 Rev. 12/74

1. NOTIFICATION OF PARENT, GUARDIAN OR CUSTODIAN

I further, hereby certify that _____ was notified of the taking into
(Parent, Guardian, Custodian)

custody of the above child(ren) by _____ at
(law enforcement officer)

(time) _____ on (date) _____ 19____. This notification was made by (explanation of method of

contact) _____

_____ _____

Signed _____

2. RECOGNIZANCE UPON RELEASE TO PARENT, GUARDIAN OR CUSTODIAN

I (or We) hereby acknowledge that said child (ren) ha____ been placed in my (or our) custody

by _____ of the

_____ at _____ A.M. P.M.

on _____ ,19 _____ and acknowledge notification of the foregoing complaint and promise to bring said child ____ to the Oakland County Juvenile Court at the Court House, Oakland County Service Center, Pontiac, Michigan upon notification for hearing on said complaint.

Date _____ _____
Parent or Guardian

3. ATTEMPTED NOTIFICATION

I, further, hereby certify that I attempted to notify _____
(Names)

_____ _____
Relationship to Child(ren)

of the above child(ren) of his, her or their apprehension and taking into custody. This notification was attempted by

(describe action taken in attempting to make contact, including times and date) _____

_____

_____

_____

Witness: _____ Signed _____
Address _____

4. OFFICER'S CUSTODY STATEMENT *

To the Probate Court for said County
In the matter of _____
child (ren) under 17 years of age

I hereby certify that one or more of the following conditions exist and are so serious that the interests of the child(ren) and of society cannot be protected pending hearing unless said child(ren) is (are) detained, as provided by statute or court rule:

Check applicable reason(s):

( ) 1. Home conditions make immediate removal necessary.
( ) 2. Runaway from home, or are otherwise evading the person or proper authority having legal custody.
( ) 3. Offense is so serious release would endanger public safety.
( ) 4. Need for observation, study, and treatment by qualified experts.

Signed _____

*NOTE:

JCR 3 provides, "It shall be the duty of any officer taking a child into custody to release such child to the custody of his or her parent or parents, guardian or custodian, accepting their written promise to bring the child to the court at a time fixed by the court" except in instances where one or more of the conditions set forth above is so serious interests of the child or society cannot be protected pending hearing by such release. See Recognizance upon Release to Parents, Guardian or Custodian for a form for such release.

Original - Court
cc: - Court Worker (Intake)
Officer taking child into custody
Detention or Shelter Facility

TOPIC #2: CHILD NEGLECT AND ABUSE

PROBLEM:

What should and can a school do when child neglect or abuse is suspected?

DISCUSSION:

I. WHAT IS NEGLECT?

Not all neglect cases are found in newspaper headlines describing the bruised and battered child. According to Michigan law, neglect encompasses such broad areas as abandonment, unsuitability and unhealthy living conditions, parental failure to supervise, failure to send a child to school, failure to provide medical care, failure to provide a moral home setting, and failure to provide the proper emotional environment. Any of these forms of neglect may permit the court to take jurisdiction over the child and parents.

Neglect cases are referred to the juvenile court from members of the family, relatives, neighbors, hospitals, police, teachers and counselors.

II. INDICATIONS OF CHILD NEGLECT

As school personnel, the following are indications suggestive of possible neglect:

A. Facial and bodily cuts, bruises and welts.

B. Repeated wearing of torn and dirty clothing.

C. Lack of personal hygiene.

D. Inadequate or seasonally inappropriate clothing.

E. A child who appears to always be hungry.

F. Frequent absences and tardiness.

G. Lingering coughs, colds and untreated medical conditions.

H. Failure to seek appropriate care and treatment for handicaps.

I. Statements made by the child.

J. Statements made by friends and classmates of the child.

K. Inability to concentrate on school work.

L. Inappropriate classroom behavior.

M. Retardation of development for other than organic reasons.

III. WHAT TO DO WHEN PHYSICAL INJURIES EXIST

Michigan law (MSA 14.564(1)) requires any school principal, assistant principal or counselor having reasonable cause to believe that a child under 17 years of age who has physical injuries which were, or which may have been intentionally inflicted upon the child by any person responsible for his care, to have the child examined by a physician. The person in charge of the school staff shall require the "Confidential Report of Suspected Child Abuse" to be filled out. (A copy of the form is attached for your information.)

A recent amendment to the law permits the confinement of the child for his protection until a Juvenile Court Hearing can be held.

....MSA §14.564(1) Reporting Injuries to children under 17.

Section 1 [1]. Any licensed physician who provides medical treatment or who makes a medical examination of any child under 17 years of age who has physical injuries which were, or may have been intentionally inflicted upon him by any person responsible for his care, or a registered nurse, social worker or school principal, assistant principal or counselor or any law enforcement officer having reasonable cause to believe that a child under 17 years of age brought to him or coming before him has physical injuries which were, or may have been intentionally inflicted upon him by any person responsible for his care, shall have the child examined by a physician after which he shall immediately cause a report to be made as required by this act. When the attending or examining physician, registered nurse, social worker or school principal, assistant principal or counselor or any law enforcement officer is a member of a hospital, agency or school staff he shall notify the person in charge thereof of his finding and the person in charge shall cause the report to be made.

Disposition or release of child. [2]. If the child has been admitted to a hospital or brought to a hospital for outpatient services and the attending physician determines that the release of the child would endanger the child's health or welfare, he shall so report to the person in charge. The person in charge may detain the child until the next regular business day of the probate court, at which time the probate court shall order the child detained in the hospital or in some other suitable place pending a preliminary hearing as required by section 14 of chapter 12a of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.14 of the Compiled Laws of 1948, or order the child released to the parent, guardian or custodian.

Copies of the report required in Section 1 of the Act are mailed to the County Prosecutor's office, the Juvenile Court, the Department of Social Welfare, the Lansing Office of the State Department of Social Services, and one is kept by the reporting person.

The report must contain the names and addresses of the child, his parents, his guardian or the person with whom he resides, the child's age and a description of his injuries. The report shall also contain any other information available to the reporting person which might establish the cause of the injuries and the manner in which they were inflicted. (MCLA §522.572.); MSA 14.564(2).

The State Department of Social Services along with the Juvenile Court and the Prosecutor's office will investigate such reports.

The following steps should be taken:

A. Contact your immediate superior (school principal).

B. The principal should contact the Oakland County Protective Services (858-1590).

C. They will in turn decide whether the police should be called in.

D. The principal should view the injuries and then commence to file the Suspected Child Abuse Report. The child should be conveyed to a hospital where the examining physician will fill out his section of the same Abuse Report.

IV. LEGAL SAFEGUARDS

To facilitate complete reporting of child abuse incidents, the law provides that any reporting party shall be immune to legal action that a parent or other person might initiate. Section 3 of Act No. 98 states: "Any person making or assisting in the making of the report shall be presumed to have acted in good faith." These persons "...shall be immune from civil or criminal liability which might otherwise be incurred thereby."

Further provision is made that "Neither the physician-patient privilege nor the privilege between spouses shall prevail in any action, civil or criminal, which is or may have been brought because of any report made pursuant to the provisions of this act. Any person who violates the provisions of this act is guilty of a misdemeanor." (Sections 4 and 5 of Act No. 98)

V. OTHER FORMS OF NEGLECT

When physical injuries do not exist, but other forms of neglect are suspected, you should contact your immediate superior. Your next course of action, depending on the circumstances involved, may be to discuss the matter with the parents.

If discussions and meetings with the parents or guardian do not solve the situation, then contact your attendance officer, school-court liaison person, school nurse, social service worker, or police department and/or Protective Services so that continued study and investigation can be achieved both at school and in the home.

If further study reveals possible neglect, then a petition can be filed with the Juvenile Court. Neglect must be proved in court with factual evidence. Therefore, if neglect is suspected, keep a record of dates, time, statements, incidents and witnesses.

VI. THE COURT'S AUTHORITY

A child is not charged with neglect; the parents or guardian are charged.

If the court takes jurisdiction over the child, it could release the child back to the parents under a court worker's supervision and order the parents to correct the situation. The court could also order the parents to attend Parental Education classes, or attend therapy sessions at a private or public agency.

The court could also take away the child and place him in a relative's home, foster care home, or any one of the numerous county or state facilities.

A school district is entitled to additional state aid for educating a child who does not normally reside in its district but is placed in the area by court order. (Normally, those students can be identified by comparing the registration forms with the last name of the person who registers the child. An alternative method would be to call the Youth Protective Worker in your area who could provide you with a list of such children.)

The court, as a last resort, could declare the child a "permanent ward" if the neglect is so serious and has continued for a long period of time despite court attempts at supervision and counseling for the parents. A permanent ward is a child whom the county has complete responsibility for upkeep, schooling and long-range planning until the child reaches 19 years of age. In such a case, the court has decided to sever all parental rights and responsibilities. This means, the parents are <u>no longer</u> the legal parents of that child.

Criminal charges, such as child abuse or torture, may be brought against the parents in the adult criminal court.

CONFIDENTIAL REPORT OF ACTUAL OR SUSPECTED CHILD ABUSE *

State of Michigan
Department of Social Services
Lewis Cass Building
Lansing, Michigan 48913

Date _____

Name of Child _____ Birth Date _____ Race

Father's Name _____ Mother's Name _____

Address _____
Street City County Phone

_____
(Person child living with when abuse occurred) (Address where abuse occurred)

SOURCE OF REFERRAL (Check appropriate box)

☐ Physician ☐ Hospital ☐ Law Enforcement Officer ☐ School Counselor

☐ Nurse ☐ Social Worker ☐ Ass't. School Principal ☐ School Principal

Referring person's Name _____

Address _____
Street City County State

Phone No. _____

Describe injury and reasons for suspicion of non-accidental injury:

To be completed by medical personnel when physical examination has been done:

Report of Physical Examination

Confirmatory Information:

Lab Report: _____
X-Ray: _____
Other: _____

History or physical signs of previous injury? Yes_____ No_____

Dates and place of prior hospitalization or medical examination for this child: _____

Distribution

White - Prosecuting Attorney, County where injury occurred
Blue - Social Services Department, County where injury occured
Pink - Probate Court, County where injury occurred
Canary - State Department of Social Services, Lansing
Goldenrod - Person Reporting

* Persons required by law to report—Act 98, Public Acts 1964, as amended by Public Acts 1966, and 1967.

DSS-3200 Rev. 1-70
(Formerly CD-200 which may be used)

TOPIC #3: SCHOOL INCORRIGIBILITY

PROBLEM:

What is school incorrigibility? What can a school do about an incorrigible student?

DISCUSSION:

I. DEFINITION

The Juvenile Court has jurisdiction over any child under 17 years of age "who being required by law to attend school, wilfully and repeatedly absents himself therefrom, or repeatedly violates rules and regulations thereof" or "whose parent or other person legally responsible for the care and maintenance of such child, when able to do so neglects or refuses to provide proper or necessary... education as required by law."

CAUTION: In order to have valid, enforceable school rules and regulations, Michigan law requires that such rules be officially adopted at a school board level, and that each student be supplied a copy of the rules and regulations in the beginning of each school year.

School incorrigibility is not to be confused with minor school infractions, the latter of which may be handled within the school under the procedures as set forth in detail in Topic #25, Student's Rights.

II. APPLICABLE LAW

The State of Michigan has a Compulsory Education Law which makes it the responsibility of the parents or guardian or other persons in control of a child to see that any child between 6 and 16 years shall be required to attend public schools properly equipped to participate in the school activities. If the

parents or guardian makes every effort to see that the child attends school but the child refuses, he may be found responsible for his actions on the basis of being "repeatedly disobedient to the reasonable and lawful commands of his parents" or he "habitually idles away his time." If the child does attend school but violates the school's rules and regulations he is disobeying the Compulsory Education Law.

III. JUVENILE COURT INVOLVEMENT

School authorities should exercise good judgment in determining which incorrigible acts committed by a juvenile should be brought before the juvenile court in the form of a petition. All available means at the disposal of the local school district should be exhausted before a petition is filed. It should be stressed that only serious acts which affect the daily school pattern should be brought to juvenile court.

However, if a complaint is filed and, after a hearing, the court takes jurisdiction over the child, the following dispositions are possible:

A. Referral to Youth Assistance - Voluntary Case Work Service.

B. Give a warning.

C. Place the child on probation.

D. Placement in a foster home.

E. Placement in a private child care center.

F. Commitment to a public institution such as Boy's or Girl's Training School.

TOPIC #4: SCHOOL ATTENDANCE AND TRUANCY

PROBLEM:

What are the laws regarding school attendance and truancy? How can school attendance and truancy problems be legally resolved?

DISCUSSION:

I. THE LAW

A. MANDATORY COMPLIANCE:

All parents are required by state law to send their children to school until the child's 16th birthday. The Juvenile Court in Oakland County interprets the law to mean that persons under 16 years of age are required to attend school on a regular basis. The pertinent statute provides as follows:

MCLA 340.731 COMPULSORY ATTENDANCE AT SCHOOL. (MSA 15.3731)

Sec. 731. (a) Except as provided in section 732 and subject to the provisions of subsection (b), every parent, guardian or other person in this state, having control and charge of any child between the ages of 6 and 16 years, shall send such child, equipped with the proper textbooks necessary to pursue his school work, to the public schools during the entire school year, and such attendance shall be continuous and consecutive for the school year fixed by the district in which such child is enrolled. In school districts which maintain school during the entire year and in which the school year is divided into quarters, no child shall be compelled to attend the public schools more than 3 quarters in any one year; but a child shall not be absent for any 2 consecutive quarters.

(b) A child becoming 6 years of age before December 1 shall be enrolled on the first school day of the school year in which his sixth birthday occurs. A child becoming 6 years of age on or after December 1 shall be enrolled on the first school day of the school year following the school year in which his sixth birthday occurs.

B. EXCEPTIONS:

MCLA 340.732 CHILDREN NOT REQUIRED TO ATTEND PUBLIC SCHOOL. (MSA 15.3732)

Sec. 732. In the following cases, children shall not be required to attend the public schools:

PRIVATE, PAROCHIAL, OR DENOMINATIONAL SCHOOL.

(a) Any child who is attending regularly and is being taught in a private, parochial or denominational school which has complied with all provisions of this act and teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools of the district within which such private, denominational or parochial school is located;

PAGE OR MESSENGER IN LEGISLATURE.

(b) Any child who is regularly employed as a page or messenger in either branch of the legislature during the period of such employment;

PHYSICAL INCAPACITY.

(c) Any child who is physically unable to attend school. If the attendance officer is notified of the nonattendance of any child at school and he shall find the one in parental control claiming that such child is physically

unable to attend school, he may require the said person in parental control of said child to secure a written statement of a competent physician, certifying that such child is physically unable to attend school;

MENTALLY HANDICAPPED, EMOTIONALLY DISTURBED, OR UNADJUSTABLE CHILDREN.

(d) Any child whose parent or legal guardian claims that the said child under his jurisdiction is unable to pursue the school work offered by the school district in which he maintains his legal residence because of mental or emotional conditions may be released from school attendance by the county superintendent or superintendent of schools in districts for which the county attendance officer acts, or the superintendent of schools in all other districts: Provided, That such county superintendent or superintendent of schools has obtained a written statement from a psychiatrist or a child center or clinic or other appropriate agency approved by the superintendent of public instruction that the child is incapable of benefiting from public school attendance: Provided further, That a child shall be excused from attending school if such child is determined to be unadjustable under the provisions of Act No. 157 of the Public Acts of 1947, being sections 409.1 to 409.30, inclusive, of the Compiled Laws of 1948;

CHILDREN UNDER 9, DISTANCE FROM SCHOOL; EXCEPTIONS.

(e) Children under 9 years of age whose parents do not reside within 2 1/2 miles, by the nearest traveled road, of some public school: Provided, That if transportation is furnished for pupils in said district, this exemption shall not apply;

CONFIRMATION CLASSES, ATTENDANCE.

(f) Any child 12 to 14 years of age while in attendance at confirmation classes conducted for a period of not to exceed 5 months in either of said years; and

RELIGIOUS INSTRUCTION CLASSES OFF PUBLIC SCHOOL PROPERTY.

(g) Any child who is regularly enrolled in the public schools while in attendance at religious instruction classes for not more than two class hours per week, off public school property during public school hours upon written request of the parent, guardian or person in loco parentis in accordance with rules and regulations prescribed by the superintendent of public instruction.

C. EXAMPLES OF EXCEPTIONS TO COMPULSORY ATTENDANCE LAW:

1. NON-PUBLIC SCHOOLS:

Parents of children of compulsory school age can comply with the compulsory school laws by sending their children to a non-public school provided the non-public school has met the following conditions as determined by the public schools which the children should by law attend:

a. The principal or other person or persons in charge of the non-public school, at the opening of such school and at such other time as the superintendent or intermediate superintendent of schools shall direct, furnishes to the superintendent of schools of the district in which such non-public school is situated or to the intermediate school superintendent, the name, age, and grade of the said children who have enrolled in

such school and the number or name of the district and the city or township and county where the parent, guardian or person in parental relation resides and the name and address of the parent, guardian or other person in parental relation of every such child; and also in such school and who are not in regular attendance thereat together with the number or name of the district and the city or township and county where the parent, guardian or person in parental relation resides and the name and address of the parent, guardian or other person in parental relation resides and the name and address of the parent, guardian or other person in parental relation to such children. (Section 340.738 of the Compiled Laws of 1948.)

b. The non-public school teaches subjects comparable to those taught in the public schools to children of corresponding age and grade as determined by the course of study for the public schools of the district within which the non-public school is located. (Par. (a), Section 340.732 of the Compiled Laws of 1948.)

c. The non-public school employs teachers who hold teaching certificates such as would qualify them to teach in like grades of the public schools of the state. (Section 388.553 of the Compiled Laws of 1948.)

d. The non-public school utilizes buildings (or parts of buildings) which have been found to meet the fire and safety standards of either the local municipality in which such school is located or the standards of the State Fire Marshal in the instance that the

school is not located in a municipality. (Section 388.853 of the Compiled Laws of 1948.)

e. The non-public school utilizes physical facilities which meet the sanitary and other health safety requirements of the local health departments having jurisdiction in which such facilities are located except where the approval of such facilities for these conditions is preempted by the Michigan Department of Public Health. (Section 388.854 of the Compiled Laws of 1948.)

2. PARENTAL TEACHING:

A parent or legal guardian may comply with the compulsory school if he or she holds a Michigan teacher's certificate and provides comparable educational instruction to his or her child or children in the home or employs a legally qualified tutor who provides comparable instruction to such child or children in the home and meets the sanitary conditions of the same standard as in the public schools. (Attorney General Opinion No. M-576, May 18, 1961.)

II. RESPONSIBILITY OF PUBLIC SCHOOL OFFICIALS

It is the responsibility of the officials of the local school district, or in certain instances as defined in the compulsory school laws that of the intermediate school superintendent, to enforce the compulsory shcool laws. This means that these officials must:

A. Ascertain whether children, who are residents of their districts, between the ages of 6 and 16 years, are enrolled in and attending some school or, in the alternative being taught at home by their parent or legal guardian;

B. If such children are enrolled in a non-public school, determine whether such non-public school meets the standards described in the foregoing section;

C. If such children are being taught at home by their parents or legal guardian, determine the teaching qualifications of their parents and the subjects taught as stated in the previous section;

D. If such children are not attending a public or a non-public school or being taught by their parents as described, effectuate the proceedings set forth in the compulsory school laws which could lead eventually with a parent or legal guardian being found guilty of a misdemeanor by an appropriate court and punished by a fine of not less than $5.00 nor more than $50.00 or imprisoned in the county or city jail for not less than 2 or more than 90 days or both such fine and imprisonment in the descretion of the court.

III. ENFORCEMENT AS TO STUDENTS

A student who refuses to attend school may be charged in Juvenile Court with school truancy. When filing school truancy petitions (See Juvenile Court Practices, Procedures and Services, Topic #1.), you should list the dates that the student was absent, not the class hours or half-days missed. Class hours or half-days missed are classified as school incorrigibility rather than school truancy.

An unexcused absence is defined for court purposes as: non-attendance for the full school day without a proper medical or parental excuse presented to school authorities. Listed on the petition as a witness should be the school official who has control of the official school attendance record. That

official should also be prepared to come to court and testify from the school records concerning attendance. Data Processing reports are admissible as long as this method of attendance keeping is the usual and ordinary means employed by the school.

IV. ENFORCEMENT AS TO PARENTS

Parents who refuse to send their children to school may be charged with either a criminal offense or educational neglect.

A. EDUCATIONAL NEGLECT: If a pattern of absences is apparent then educational neglect is a possibility. In order to prevail in juvenile court at a later date, the following procedure should be implemented:

1. Make phone calls to parents and keep numbers and dates of those calls.

2. Send out certified letters to parents requesting medical excuses and keep copies of the letters.

3. Attempt personal home visits. Caution: Do not send someone alone, particularly a woman alone.

4. Check attendance records of prior years and of other family members in school.

B. CRIMINAL OFFENSE: A parent who refuses to send a child to school may be prosecuted under the criminal law which provides as follows:

$15.3740. Violation of provisions by parent; penalty.

Sec. 740. In case any person, parent or other person in parental relation shall fail to comply with the provisions of this act, he shall be deemed guilty of a misdemeanor,

> and shall on conviction thereof be punished by a fine of not less than $5.00 nor more than $50.00, or imprisonment in the county or city jail for not less than 2 nor more than 90 days, or by both such fine and imprisonment in the discretion of the court. (CL '48, §340.740.)

The Juvenile Court Assistant Prosecutors are available for consultation on your specific attendance problems. They are trained to answer your questions and will make every effort to assist you.

TOPIC #5: SCHOOL-COURT LIAISON

PROBLEM:

How can the school better communicate with the Juvenile Court?

DISCUSSION:

I. SCHOOL-COURT LIAISON

In order to aid a school district or an individual school with the complexities of juvenile court, it is suggested by the Oakland County Prosecutor's office that each district or school designate one staff member as a "school-court liaison".

The school administrator so designated will be better able to deal with the juvenile court on school matters after he learns the system and knows the proper court personnel to contact. Caseworkers and youth assistance personnel from the court can deal directly with him. The creation of this position will allow for the development of a school staff member with an expertise in this area.

Perhaps this duty could be undertaken by the appropriate school designate whose existing duties already include discipline, attendance and other related matters.

II. JUVENILE COURT DEPARTMENTS

A list of departments, persons, and telephone numbers within the Oakland County Juvenile Court which will aid a school-court liaison is contained in Appendix I, pages 169 to 175.
(list prepared June of 1975)

TOPIC #6: SCHOOL-POLICE LIAISON

PROBLEM:

How can schools better communicate with the local police?

DISCUSSION:

In order for schools to have more effective communication with the local police departments, the Oakland County Prosecutor's office suggests that the schools take the initiative and request the appointment of a school-police liaison officer from their local police department. The advantages of designating one officer to serve in the capacity of school-liaison includes having access to a trained officer who is familiar with the particular problems of a given school.

The school-police liaison officer can work with each school to develop procedures for dealing with law enforcement problems within that school. Some school districts have already done this and the experience has proven valuable in promoting harmony between law enforcement and the school system.

TOPIC #7: CONFIDENTIAL COMMUNICATIONS & RECORDS

PROBLEM:

What communications between students and teachers are confidential? What types of student records are privileged? When, if ever, can student confidential communications and records be disclosed?

DISCUSSION:

I. STUDENT-TEACHER PRIVILEGE

The following Michigan law spells out in detail the status of student records and confidential communications:

> MCLA 27A.2165. School teachers and employees not to disclose communications from students or other juveniles; consent.
>
> Sec. 2165. No teacher, guidance officer, school executive or other professional person engaged in character building in the public schools or in any other educational institution, including any clerical worker of such schools and institutions, who maintains records of student's behavior or who has records in his custody, or who receives in confidence communications from students or other juveniles, shall be allowed in any proceedings, civil or criminal, in any court of this state, to disclose any information obtained by him from the records or such communications; nor to produce records or transcript thereof, except that testimony may be given, with the consent of the person so confiding or to whom the records relate, if the person is 18 years of age or over, or, if the person is a minor, with the consent of his or her parent or legal guardian.

The effect of the statute is to impose upon teachers, guidance officers, school executives or other professional persons engaged in character building in schools, an obligation not to disclose communications received in confidence from students, as well as records of students behavior. These communications and records are not to be released unless consent is given by the student's parents, legal guardian or by the student himself, if 18 years old.

II. THE PRIVILEGE AND JUVENILE COURT

Since 1967 when the United States Supreme Court issued the decision of In re Gault, the Juvenile Court has grown from an informal paternal court, to that of one guided by complex and detailed rules of evidence and strict procedures.

In 1969, the Michigan Supreme Court apparently aware of the growth of juvenile law, adopted Juvenile Court Rule No. 7.2 (E) (4). The rule states that once a petition is authorized and testimony is given, any agency or person giving such information "shall be immune from any subsequent legal action with respect to furnishing such testimony, reports or other information".

To date, at trial in Juvenile Court, this court rule has been accepted by the court as the basis for the introduction into evidence of student attendance records.

III. SCHOOL RECORDS

A Federal Statute has recently been enacted that addresses itself to the question of public school records. Public Law 93-380 entitled: Privacy Rights of Parents and Students has a direct impact on student record policies and practices of school districts.

Many school districts are finding that implementation of this legislation is resulting in a thorough review of their current policies. This review by school districts is resulting in the development of new policies on the collection, maintenance and dissemination of student records.

The rules and regulations for Public Law 93-380 are being written and will provide clarification and interpretation of this law. They will be distributed by the United States Department of Health, Education and Welfare sometime this summer or in the early fall of 1975.

School personnel who are having difficulty in the interpretation of this legislation may write the following address for assistance:

School Records Task Force
c/o Room 5660
Department of Health, Education
and Welfare
336 Independence Avenue, S.W.
Washington, D.C. 20201

Further inquiry regarding the new Federal Statute should be made to your district or board attorney, or you can contact Mr. Terry Thomas, Director, Pupil Services, Oakland Schools, 2100 Pontiac Lake Road, Pontiac, Michigan 48054 (313-858-2121)

IV. LEGISLATION

A. Federal Legislation Public Law 93-380 entitled: Privacy Rights of Parents and Students.

(See following pages)

CHAPTER I

SECTION A - FEDERAL LEGISLATION PUBLIC LAW 93-380 ENTITLED: PRIVACY RIGHTS OF PARENTS AND STUDENTS

Sec. 438. (a)(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of post-secondary education the following materials:

(i) Financial records of the parents of the student or any information contained therein;

(ii) Confidential letters and statements or recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) If the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations--

(I) Respecting admission to any educational agency or institution,

(II) Respecting an application for employment, and

(III) Respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (B), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be recurred (sic) as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4) (A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (b), those records, files, documents, and other materials which--

(i) Contain information directly related to a student: and

(ii) Are maintained by an educational agency or institution, or by a person acting for such agency or

(B) The term "education records" does not include--

(i) Records of institutional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) If the personnel of a law enforcement unit do not have access to education records under subsection (b)(i), the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;

(iii) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or para-professional acting in his professional or para-professional capacity, or assisting in that capacity, and which are created, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section, the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b)(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education

Records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to the following--

(A) Other school officials including teachers within the educational institution or local educational agency who have been determined by such agency or institution to have legitimate educational interests;

(B) Officials of other schools or school systems in which the student seeks or, intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) Authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in Section 408(c) of this Act), or (iv) state educational authorities, under the conditions set forth in paragraph (3) of this subsection; and

(D) In connection with a student's applications for, or receipt of, financial aid;

(E) State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974;

(F) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) Accrediting organizations in order to carry out their accrediting functions,

(H) Parents of a dependent student of such parents, as defined in Section 152 of the Internal Revenue Code of 1954; and

(I) Subject to regulations of the Secretary in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

(2) No funds shall be made available under any applicable program to any education agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection unless--

(A) There is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) Such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) state educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: provided, that except when collection of personally identifiable information

is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (I)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (I) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(C) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(D) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(E) No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(F) The secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

(G) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such department.

B. The following is an Outline of Federal Legislation Entitled: Privacy Rights of Parents and Students.

I. WHAT EDUCATIONAL AGENCIES ARE INVOLVED?

All who receive Federal Funds.

II. DEFINITION OF EDUCATIONAL RECORDS:

A. What are educational records?

Those records, files, documents, and other materials which - contain information directly related to a student and are maintained by an educational agency or institution, or by a person acting for such agency or institution.

B. What are not educational records?

1) Records of institutional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker and which are not accessible or revealed to any other person except a substitute.

2) If the personnel of a law enforcement unit do not have access to educational records under subsection (b) (i), the records and documents of such law enforcement unit which -

a. are kept apart from records described as educational records,
b. are maintained solely for law enforcement purposes, and

c. are not made available to persons other than law enforcement officials of the same jurisdiction.

3) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other person.

4) Records on a student who is 18 years of age or older, or is attending an institution of post secondary education, which are created or maintained by a -

a. Physician,
b. Psychologist,
c. Psychiatrist,

or other recognized professional or para-professional acting in his professional or para-professional capacity, or assisting in that capacity, and which are created, maintained, or used only in connection with the provision of treatment to the student, and are not made available to anyone other than persons providing such treatment.

Provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

III. PARENTAL RIGHT TO ACCESS EDUCATIONAL RECORDS:

A. Of all students who are or who have been in attendance;

B. Schools must comply with parent's request within 45 days;

C. If record contains information on more than one student, such as disciplinary record, only that part of such material or document as it relates to such student may be inspected by the parent. The parent may be informed of the specific information contained in these materials or documents.

IV. PARENTS RIGHT TO CHALLENGE THE EDUCATIONAL RECORD:

A. Opportunity for a hearing if they believe the records are:

1) Inaccurate;
2) Misleading;
3) Violation of the privacy or other rights of students.

B. Must be provided with the opportunity for the:

1) Correction of inaccurate records;
2) Deletion of materials that may be misleading or in violation of privacy.

V. RELEASE OF EDUCATIONAL RECORDS:

A. Only with written consent of parent specifying:

1) Records to be released;
2) To whom they are to be released;
3) For what purpose.

B. Exceptions to releasing records without parental consent:

1) Directory information - Public Notice Must be Given.

2) Other school officials within the educational agency must have legitimate educational interests.

3) Officials of other school systems in which student seeks or intends to enroll on condition that the parents:

   a. Be notified of transfer;
   b. Receive a copy of the record upon request;
   c. Have an opportunity to challenge the record.

4) In compliance with judicial order - lawfully issued subpoena. Parents and the students are notified of all such orders or subpoenas in advance of compliance.

5) In connection with a student's application for, or receipt of financial aid.

6) State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to State Statute adopted prior to November 19, 1974.

7) Accrediting organizations in order to carry out their accrediting functions.

8) Organizations conducting studies for, or on behalf of, educational agencies for the purpose of developing, validating, or administering predictive tests. Student

aid programs, improving instruction:

a. Conducted so that personal identification of students and their parents will not be released to other than representatives of such organizations;

b. Information will be destroyed when no longer needed for the purpose which it is conducted.

9) Parents of a dependent student.

10) Emergency - to protect the health or safety of the student or other persons.

11) Authorized representatives of the following for the purposes of audit evaluation:

a. Comptroller General of the United States;
b. The Secretary. HEW;
c. Administrative head of an educational agency;
d. State educational authorities.

VI. RECORDING OF REQUESTS FOR ACCESS:

A. Each educational agency will maintain a record which will indicate all individuals, agencies, or organizations which have requested or obtained access to a student's educational records and the legitimate interest specified for wanting access.

B. Available only to parents, to school officials, and his assistants who are responsible for the custody of such records.

VII. COMMUNICATION OF RIGHTS TO PARENTS - STUDENTS:

Must inform parents or students if 18 years of age of their rights accorded to them by this section.

VIII. POST SECONDARY RIGHTS NOT INCLUDED:

A. Financial records of the parents or any information contained therein.

B. Confidential letters - statements - recommendations - placed in educational records prior to January 1, 1975. If such letters or statements are not used for purposes other than those for which they were specifically used.

C. Student may sign a waiver of his right to access:

1) Student upon request be notified of the names of -

2) All persons making confidential recommendations;

3) Recommendations must be used solely for the purpose for which they were intended.

V. SAMPLE MATERIALS

The sample materials in this Topic are being used by some school districts and are presented for your review. We wish to acknowledge the efforts of Terry Thomas, Director, Pupil Services, Oakland Schools, in the compliation of this material.

As previously stated, the rules and regulations of Public Law 93-380 are being written by the United States Department of Health, Education and Welfare. In the absence of these rules and regulations, legal review of all procedures, such as the materials described in this Topic, is recommended.

Included on the following pages are the sample materials listed below:

SECTION A ..... Requesting a Student's Educational Record From Another School District

SECTION B ..... Parental Request to have Access to Their Children's Educational Record

SECTION C ..... Parental Request to Release the Educational Records to a Third Party

SECTION D ..... Denying Access to a Student's Educational Records

SECTION E ..... Communicating to Parents/Students Their Rights Under Public Law 93-380

SECTION A - REQUESTING A STUDENT'S EDUCATIONAL RECORD FROM ANOTHER SCHOOL DISTRICT

SAMPLE FORM 1

Front of Card

REQUEST FOR EDUCATIONAL RECORDS

FEDERAL STATUTE ENTITLED: PRIVACY RIGHTS OF PARENTS AND STUDENTS

Schools may send a student's educational record to officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity to challenge the content of the record.

I have read the statement above. Please send the educational records of my child,

_____ To _____

Birthdate_____ _____

Grade_____ _____

Date of Entry_____ _____

Zip Code

_____

Signature of Parent

Back of Card

THIS CARD TO BE SENT TO:

_____

_____

_____

_____

SAMPLE FORM 2

Schools may send a student educational record to officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity to challenge the content of the record.

I have read and understand the statement above. Please send the educational records of my child _____, Grade Level _____
(Name of Child)

who was enrolled in _____ , to _____ (Name of
(Name of Previous School)

_____.
Appropriate Agent and Name of the School)

Please send me a copy of all educational records being transferred.

_____
Parent/Legal Guardian's Name

_____
Address

_____

_____
Signature of Parent/Legal Guardian

_____
Date

Records are to be sent to:

_____ Name of School Official

_____ Name of School

_____ Address of School

_____
City State Zip Code

_____
Signature of School Official

SAMPLE FORM 3

Schools may send a student's educational record to officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity to challenge the content of the record.

I have read the statement above. Please send the educational records of my child:

Student Name (Print) _____

Birthdate _____ Grade _____

Date of Entry to Receiving School _____

Date of Request _____ _____
(Signature of Parent/Legal Guardian

Name of Parent (Print) _____

Relationship _____

Records are to be sent:

From _____
(Sending School District) (Address)

_____
(School)

To _____
(Receiving School District) (Address)

_____
(School)

Signature of School Official _____

Print Name and Position _____

REQUESTING A STUDENT'S EDUCATIONAL RECORD FROM ANOTHER SCHOOL DISTRICT (continued)

SAMPLE FORM 4

This form is provided by _____ Schools for the purpose of obtaining or releasing a student's school records. By signing this release, a parent, legal guardian, or the student involved who is over 18 years of age, will expedite the transfer of records to another school for enrollment in that school.

Release Records To

Name of School _____

Address _____

If available, list name and title of person to whom records should be sent.

Name of Student _____ Date of Birth _____ Grade _____

Name of School Student is Leaving _____

Address of School _____

I hereby authorize the transfer of all school records as defined by PL-93-380 and any amendments thereto for the above named student. By signing this request for transfer, I relieve the school which the above named student was attending of the responsibility of notifying me that the records are being transferred.

Date _____ Signature _____
(Parent / Legal Guardian, or self if 18 years of age)

Address _____
(If moving, list new address if available)

Date _____ Signature _____
(School person initiating request for transfer)

1. Parents, legal guardians, or legal age students may request a review and/or copy of the records transferred. If this is desired, the school office should be notified.

2. Records transferred by this release are not to be transferred to any other third party by the receiving school without the written consent of the parent, legal guardian, or student over 18 years of age.

SECTION B - PARENTAL REQUEST TO HAVE ACCESS TO THEIR CHILDREN'S EDUCATIONAL RECORDS

Some districts as part of their district policy establish appointments for parents who wish to review their children's school records. The rationale is that it may take considerable time to gather all of the educational records of a child because the data are not totally contained in a child's cumulative record.

SAMPLE FORM 5

Date of Request _____

Parent/Legal Guardian's Name _____

Address _____ Zip Code _____

Phone Number _____

I would like to examine the official records, files, and data of _____ as they relate to _____
(Name of School) (Name of Student)

_____
Signature of Parent/Legal Guardian

- -

Date Granting Request _____

Appointment Scheduled For _____
(Date)

Person(s) Examining Record _____

_____ School's Representative Present _____
(Name of School)

_____

I examined the records of _____

_____
Signature of Parent/Legal Guardian

This form is to be maintained in student's official records.

SECTION C - PARENTAL REQUEST TO RELEASE THE EDUCATIONAL RECORDS TO A THIRD PARTY

Public Law 93-380 states that before releasing educational records, written consent must be given by the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and to the student if desired by the parents.

The following two forms were developed by school districts to assist parents with the written consent.

SAMPLE FORM 6

I hereby consent to the release of my child's records

_____ to _____

(Name of Child) (Name of School or Agency)

for the following reasons _____

_____

_____

The records to be released (list below)

_____ _____

_____ _____

_____ _____

Date _____

Signature _____

Address _____

PARENTAL REQUEST TO RELEASE THE EDUCATIONAL RECORDS TO A THIRD PARTY (continued)

SAMPLE FORM 7

Dear Parent or Student, if 18 years of age or older,

We have received a request from:

_____
(Name of Requesting Individual, Agency, etc.

for a copy of _____ school record.
(Name of Pupil(s))

- - - -

SECTION D - DENYING ACCESS TO A STUDENT'S EDUCATIONAL RECORD

SAMPLE FORM 8

In accordance with Federal Statute entitled: Privacy Rights of Parents and Students, you have been denied access to _____ (Name of Student) educational record. Please contact student's parent/legal guardian for written consent allowing you to have access to the student's record.

SECTION E - COMMUNICATING TO PARENTS/STUDENTS THEIR RIGHTS UNDER PUBLIC LAW 93-380

Listed below are examples of some procedures being used by some districts in communicating to parents and/or students their rights under Federal legislation entitled: Privacy Rights of Parents and Students.

1. Provide each parent and/or student with a complete copy of the school district's policy on the collection, maintenance, and dissemination of student records.
2. Provide parents of students currently enrolled and parents of new students with a copy of Public Law 93-380.
3. Place an article in local newspaper notifying parents/students of their rights.
4. Add a section to the students' handbook concerning their rights.
5. Print sample letter describing the parents' rights on back of report cards.

Copy of Sample Letter

The _____ Board of Education has the policy of allowing (Name of School District) parents the opportunity to review the school records of their children. It is our policy not to release any information contained in your child's school record to any person, agency, or organization without your written consent or your child's consent, if he is 18 years of age or over. This is in accordance with Public Law 93-380

entitled: Privacy Rights of Parents and Students. You may obtain a complete copy of this legislation by contacting _____ (Name of School Official). You may review your child's record by contacting _____ (Name of School Official) at _____ (Name of School). _____ (Name of School) representative will be available to assist you in clarifying and interpreting the contents of your child's record.

6. Review with parents their rights at PTA meetings, back to school night programs, etc.

It is the responsibility of each school district to determine its own procedures for compliance.

TOPIC # 8: ALCOHOL

PROBLEM:

What can and should the school do regarding students who possess or use alcohol?

DISCUSSION:

I. POSSESSION OR USE OF ALCOHOLIC BEVERAGES ON SCHOOL PROPERTY

The consumption or possession of alcoholic beverages by minors on school property is against the law. Further, it is a misdemeanor for an adult (18 years of age or older) to furnish alcoholic beverages to a minor or in any way assist a minor in obtaining alcohol. Any adult violating this law should be reported to the police.

II. STUDENT INTOXICATION WHILE ON SCHOOL PROPERTY

Michigan Law also provides that it is unlawful to be intoxicated in a public place, such as school buildings or school premises. Students under the influence of alcohol on school premises can be arrested as disorderly persons. Such offenses should be promptly reported to the local police department.

III. SUGGESTED LEGISLATION

The Oakland County Prosecutor's office suggests the following legislation or administrative rules to deal with inadequacies in the present laws:

A. School boards should enact rules and regulations prohibiting students from leaving school during school hours for the purpose of either consuming or purchasing alcoholic beverages. Violation for said rules could result in possible suspension and/or expulsion.

B. School boards should enact rules and regulations prohibiting students from using and/or possessing alcoholic beverages on school property <u>at any time</u>.

C. School boards should petition by resolution their local municipal councils for enactment of an ordinance prohibiting possession or use of alcoholic beverages on school premises by <u>any</u> person at any time, student or not.

TOPIC #9: SMOKING

PROBLEM:

Can students smoke on school property?
Can schools provide smoking areas?

DISCUSSION:

I. THE LAW

Perhaps the largest single discipline problem faced by public schools in Michigan, and in the nation, is the question of student smoking. Generally, Michigan public schools, under the authority of Section 614 of the School Code, have enacted rules prohibiting student smoking in school, on school grounds and at school functions.

The School Code does not include specific regulations concerning student smoking in public schools. The Courts have not provided any definitive information in regard to the issue of student smoking. However, the Criminal Statute of Michigan specifies that no minor may purchase or possess cigarettes (MCLA 722.642; MSA 25.282). Additionally, any adult who encourages the assembly of minors for the purpose of smoking on property held by him is guilty of a criminal offense. (MCLA 722.643; MSA 25.283)

II. SCHOOL SMOKING LOUNGES

As many school officials are aware, the administrative problem of dealing with student smoking in violation of local school rules is prevalent and difficult. It is noted that in some schools student smoking "lounges" similar to such facilities now maintained for teachers have been established. In those instances, student smoking lounges are to be used only by students 18 or older.

School authorities are legally permitted to designate certain places as "smoking areas" on their property. However, having once designated such an area for smoking, they must attempt to comply with the pertinent law prohibiting a person under the age of 18 from frequenting such an area for the purpose of smoking. A good faith attempt to enforce the law in this regard is satisfactory compliance.

III. POSITION OF OAKLAND COUNTY PROSECUTOR

The problem of student smoking is closely akin to the entire question of substance abuse. The Oakland County Prosecutor's office recognizes the legitimate concern regarding this escalating problem. It is in this spirit the following policy was developed.

A. To have a law prohibiting juveniles from smoking, and not to enforce it, is to breed in the juvenile disrespect for all laws. If the law is unrealistic or unenforceable, the proper remedy is to seek new legislation, not condone open violation.

B. The Oakland County Prosecutor's office encourages schools not to designate smoking areas. Such a designation gives an apparent official stamp of approval to smoking in the face of uncontrovertible evidence that smoking "is hazardous to your health". However, should the schools designate a smoking area, school officials are in compliance with the law if they take affirmative action to prevent underaged students from gaining access to these areas, i.e. frequent checks of designated areas by school personnel.

C. In dealing with a juvenile offender the goal of the Oakland County Prosecutor's office is rehabilitation, not punishment. The juvenile offender may best be helped by counseling and education against substance abuse rather than by referring him immediately into the criminal justice system through prosecution. Such is the recommendation of the President's Crime Commission which reported that prosecutors should undertake "early identification and diversion to other community resources those offenders in need of treatment for whom full criminal disposition does not appear required".

School authorities must exercise their discretion in the handling of underaged student smokers. The Oakland County Prosecutor's office expects school administrators to utilize their existing internal disciplinary procedures before considering a referral to the juvenile court.

TOPIC #10: STUDENT DRUG USE AND TREATMENT

PROBLEM:

What steps can a school take to combat student drug abuse?

DISCUSSION:

I. DRUG ABUSE

Michigan law prohibits the possession, use or delivery of controlled substances. A controlled substance can generally be defined as a non-prescription drug or narcotic, and includes marijuana, LSD, various amphetamines and barbiturates, qualudes, heroin and cocaine. Teachers or school administrators who uncover or come into contact with suspected controlled substances should seize and turn over such substances to the local police department. (See Topic #22 , Search and Seizure)

The police will conduct the necessary investigation and laboratory analysis to determine the specific nature of the substance. It is important to stress that school officials should not attempt to effectuate arrests for drug violations on their own initiative. However, we are not suggesting non-involvement. Aggressive action by school officials can help curtail or eliminate drug abuse. For example, the presence of a school administrator in a school parking lot or smoking area can eliminate the drug problem in that area.

In addition, full cooperation should be sought with the police and prosecutor's office. Reports of drug violations made to the police or the prosecutor's office will be kept in confidence. All suspected drug traffic should be reported immediately.

II. DRUG OVERDOSE

If one is confronted with a situation where a student has "overdosed" it is important that student receive emergency medical treatment immediately. We suggest the following procedure:

A. The student should be taken to a first-aid area and continually supervised by a staff person to prevent further injury. Do not attempt to treat or "talk down" the student; a drug overdose is a medical problem.

B. An attempt should be made to contact the student's parents. Once contacted the parent should be advised of the situation and informed of the need for immediate emergency medical treatment. Authorization for medical treatment must be obtained from the parent. If possible, such authorization should be on file in advance of any emergency. The parent should be advised to meet the ambulance at the nearest hospital or pick up the child at the school. A record of attempts to contact the parent should be kept.

C. If parents cannot be reached, an attempt should next be made to secure consent to treatment from the student. Michigan law allows a minor to consent to treatment for drug abuse. The statute provides as follows:

MSA 18.1151(1). Treatment for drugs or narcotics; consent executed by minor, validity; furnishing information to spouse, parent, custodian or guardian.

Sec. 1(1). A consent to care, treatment or service by a hospital, a public clinic,

a private clinic, a physician licensed to practice medicine, or a nurse registered or licensed under Act No. 149 of the Public Acts of 1967, being Sections 338.1151 to 338.1175 of the Compiled Laws of 1948, when executed by a minor who is or professes to be dependent on or subject to abuses of drugs or narcotics, is valid and binding as if the minor had achieved his majority. The consent shall not be subject to later disaffirmance by reason of minority. A parent, guardian, or custodian of a minor is not legally responsible for any care, service or treatment rendered under this Act.

Sec. 1(2). The consent of another person or persons, including but not limited to a spouse, parent, custodian, or guardian, is not necessary in order to authorize such care, treatment or service to be provided to the minor.

Sec. 1(3). A treating physician may, but is not obligated, to, inform the spouse, parent, custodian or guardian of the minor as to treatment given or needed.
(CL '48, §335.231)

D. If parental or student consent for treatment cannot be obtained, call the police. The police have the authority to summon emergency vehicles and to provide for the transportation and care of the student at a medical facility. With regard to emergency or police vehicles, it is suggested that a staff member meet such persons at a designated entrance in order to avoid confusion and delay in directing them to the problem area.

III. DRUG TREATMENT

The Oakland County Department of Drug Abuse does provide treatment facilities for drug abuse. Such facilities are widely scattered throughout the County area. Attendance at the drug abuse clinics is on a voluntary and confidential basis, generally at no cost.

Programs sponsored by the Oakland County Department of Drug Abuse are covered on the following pages.

ALCOHOL AND DRUG EDUCATION (ADE)

Box 151
Walled Lake, Michigan 48088

Phone: 624-6555

Director, Thomas A. Foley

Purpose of Agency and Services Offered:

ADE's purpose is to help youth and adults with problems relating to drug and alcohol abuse through education, prevention and recovery.

Services include a Drop-In Center, Closed Rap (for those who have made a commitment to get off drugs), Open Rap, Parents Rap (for parents of children who are on the drug scene and youth going through their program), a crisis telephone service, a Community Drug Information Services, and a speaker's bureau.

Hours:

2:00 p.m. to 6:00 p.m.	Saturday
3:30 p.m. to ?	Monday (Closed Rap starts at 7:30 p.m.)
3:30 p.m. to ?	Tuesday (Open Rap starts at 7:30 p.m.)
3:30 p.m. to ?	Wednesday (Parents Rap starts at 7:30 p.m.)
3:30 p.m. to 8:00 p.m.	Thursday and Friday

Closed Sunday, until school begins in the fall.

A second trailer now makes it possible to welcome drop-ins although a Closed or Parents Rap is in session.

Contact Person:

Thomas A. Foley, Program Director
John Povlitz, Assistant Program Director
Sue Coe, Program Coordinator
June Corella, Staff Director

Supported By:

City of Walled Lake, City of Wixom, Village of Wolverine Lake, Commerce Township, and Oakland County Department of Drug Abuse Control.

BIRMINGHAM-BLOOMFIELD COMMUNITY ACTION COUNCIL, INC.

191 Brady Lane
Bloomfield Hills, Michigan

Phone: 642-5131

Chairman, Henry M. Hogan, Jr.

Purpose of Agency and Services Offered:

The purpose of the Community Action Council is to form a coordinated effort against the problems of drug and substance abuse in the communities of Birmingham, Bloomfield Hills and Bloomfield Township. The Community Action Council is responsible for planning, implementation, funding, and coordinating programs relating to education, prevention, correction, and treatment of drug and substance abuse within the community. Common Ground and Hot Line are two of the primary services supported and coordinated by the Community Action Council.

The resources available to the Community Action Council are its own Board of Directors, which include the main community leaders such as the mayors of the two cities and the supervisor of the township; the three police chiefs; the superintendent of schools, or his designate, of both school districts; state and congressional representatives; representatives of other community service groups and clubs; high school students, and other professional and private leaders in the communities.

Contact Person:

Roger L. Busch, Executive Director

Office Hours:

10:00 a.m. to 5:00 p.m. Monday through Friday

Supported By:

The City of Birmingham, Bloomfield Hills, Bloomfield Township, Oakland County Department of Drug Abuse Control, and contributions.

CENTER FOR DRUG STUDIES
OAKLAND COMMUNITY COLLEGE

2900 Featherstone Road
Auburn Heights, Michigan

Phone: 852-0275

Executive Director, Dr. Arthur Jalkanen

Purpose of Agency and Services Offered:

The purpose of the Center for Drug Studies is to provide an educational in-service activity for school counselors with a counseling service practicum. The counseling of drug-using individuals is central to the educational training program.

Services include individual and family counseling, group interaction sessions, educational evaluation and guidance, college placement, educational in-service training and referral services.

Hours:

9:00 a.m. to 9:00 p.m.	Monday through Thursday
9:00 a.m. to 3:00 p.m.	Friday
By appointment only	Saturday and Sunday

Contact Person:

James A. Evans, Assistant Director
Darrel R. Daniel

Supported By:

The Junior League of Birmingham, Oakland Community College Auburn Hills Campus, Oakland County Department of Drug Abuse Control, and contributions.

COMMON GROUND

1090 South Adams Road
Birmingham, Michigan

Phone: 645-9676

Administrator, Leonard Schwartz

Purpose of Agency and Services Offered:

Common Ground is dedicated to a philosophy of a youth-oriented program which can help young people "help themselves" and each other by sharing experiences, identifying alternatives for action, involving community resources, responding to crises and promoting an awareness of the problems of youth.

Through an informal, friendly atmosphere, peer group counseling has been set up with the philosophy that young people are a major influence on each other and can, therefore, be effective in helping to solve each other's problems.

The unique aspect of Common Ground is the fact that it was initially conceptualized and organized by young people. To this day, the program, which is incorporated as a non-profit organization, is controlled by a worker-consumer steering committee.

Basically, we are a multi-service crisis intervention center and free clinic providing a variety of services including the following: crisis drop-in center and switchboard; leisure-time programming; events line (hidden phone); free medical clinic, free legal consultation clinic; health education; drug counseling; information; rescue; speakers' bureau; individual, group, family and marriage counseling; employment and emergency housing assistance; rumor control; and other services.

Eligibility:

As a broad-based community resource, we try to help people, regardless of age, area of residence, socio-economic background, race, etc., to get help in solving their problems. If Common Ground cannot help directly, we will do everything possible to find someone who can.

Contact Persons:

Leonard Schwartz

Hours:

7:00 p.m. to 11:00 p.m.	Sunday through Thursday
6:00 p.m. to 1:00 a.m.	Friday
2:00 p.m. to 1:00 a.m.	Saturday
8:00 p.m. to 10:00 p.m.	Monday & Thursday - Free Medical Clinic
8:00 p.m. to 10:00 p.m.	Tuesday - Free Legal Consultation
9:00 a.m. to 5:00 p.m.	Monday to Friday - By appointment

Supported By:

Private contributions, various other non-profit organizations, and the Oakland County Department of Drug Abuse Control.

FARMINGTON AREA ADVISORY COUNCIL

33000 Freedom Road
Farmington, Michigan

Phone: 477-6767
477-6600

Director, Joseph Damiani

Purpose of Agency and Services Offered:

The basic philosophy of the Farmington Area Advisory Council is to offer support and guidance primarily for Farmington young people so that they can develop more positive life styles.

Services available include individual and family counseling, group counseling, casework services, and referral services. In addition to a youth drop-in center, a crises intervention telephone service called "Rap Line" is operational. The basic purpose of this service is to be in touch with problem areas in their initial stages and to put the caller in touch with a helping person or agency.

Fees:

None

Hours:

8:00 a.m. to 5:00 p.m.	Monday through Thursday (Phones open until 11:00 p.m.)
8:00 a.m. to 1:00 a.m.	Friday
1:00 p.m. to 1:00 a.m.	Saturday
1:00 p.m. to 11:00 p.m.	Sunday

Contact Persons:

Joseph Damiani

Supported By:

The City of Farmington, Farmington Township, Oakland County Department of Drug Abuse Control, area churches, service clubs, and contributions.

GATEWAY CRISIS CENTER

26327 John R
Madison Heights, Michigan
Phone: 545-5926

Director: Nancy Sharbach

Purpose of Agency and Services Offered:

The Gateway Crisis Center provides crisis intervention for bad trips, drug overdose, etc., emergency phone lines, legal and medical referrals, and drug abuse abatement counseling. Para-professional counseling is offered on a drop-in basis, and therapy groups will soon be offered.

Hours:

Monday through Wednesday	9:30 a.m. to 5:00 p.m. 7:00 p.m. to 11:00 p.m.
Thursday	9:30 a.m. to 5:00 p.m.
Friday	9:30 a.m. to 5:00 p.m. 8:00 p.m. to 1:00 a.m.
Saturday	8:00 p.m. to 1:00 a.m.
Sunday	7:00 p.m. to 11:00 p.m.

Eligibility:

The Gateway Crisis Center is open to anyone who wishes to use its facilities.

Contact Persons:

Nancy Sharbach -- Director
Lester Schwedt -- Chairman

Supported by:

Madison, Lamphere, and Bishop Foley Schools, City of Madison Heights, Oakland County Department of Drug Abuse Control and donations.

HAZEL PARK COMMUNITY SCHOOL DISTRICT

23136 Hughes
Hazel Park, Michigan 48030

Phone: 542-3910

Coordinator, Mr. Thomas Caldwell

Purpose of Agency and Services Offered:

A comprehensive Community-School oriented Drug Education Program which engages in a parent and child education program. Operates a student-to-student teaching program about drugs called "Kids Interested in Drug Studies."

The services of this program are primarily for the Hazel Park Community School District and include resource materials to teachers, teacher training, adult education classes, parent training, and general drug referral services for teachers and counselors.

Contact Person:

Thomas Caldwell

Supported By:

Hazel Park Community School District and the Oakland County Department of Drug Abuse Control.

"HOT LINE"

Servicing the Birmingham-Bloomfield, Clawson, & Rochester Areas

Phone: 644-3300
652-0700

Coordinator, Diane Vincent

Purpose of Agency and Services Offered:

The primary purpose of Hot Line is to provide an emergency telephone service for young adults in the Birmingham-Bloomfield, Rochester and Clawson areas.

In addition to providing immediate assistance to adolescents in crisis situations, it provides an opportunity to increase the understanding of the problems faced by young people and to explore the need for additional community resources based on the problems of the young.

Crisis intervention wherein an understanding, sympathetic, yet objective listener immediately available is "on call." Professional consultation services are available to Hot Line staff, volunteers, and to callers for immediate consultation.

Hours:

6:00 p.m. to 12:00 midnight Monday through Sunday

Fees:

None

Emergency Service Number:

644-3300 or 652-0700

Supported By:

The Birmingham-Bloomfield Community Action Council, Oakland County Department of Drug Abuse Control, the communities of Rochester and Clawson, and contributions.

H.E.L.P. CENTER

145 Ruggles
Box 171
Highland, Michigan 48031
Phone: 887-4176

Director, Mr. Reese Jones

Purpose of Agency and Services Offered:

The purpose of the Huron Valley Center for Drug Studies is to provide a total drug education program and means of rehabilitation and prevention to those who are seeking help with problems in connection with drugs of abuse.

Services offered include the development and implementation of a K-12 education program for the Huron Valley Schools and an adult education program for the community. Through a small group interaction process, with trained instructors, help is given to rehabilitate the drug user by helping him to re-orient his goals and life style. Additional services include information dissemination, crisis intervention, individual and family counseling, referral services, overdose and first aid training, empathy training, and crisis intervention techniques.

Fees:

None

Hours:

9:00 a.m. to 5:00 p.m. Monday through Friday

Contact Persons:

Reese W. Jones

Supported By:

Huron Valley Schools, Huron Valley Community Drug Abuse Committee, Milford Township, Highland Township, White Lake Township, Commerce Township, Oakland County Department of Drug Abuse Control and contributions.

OAKLAND UNIVERSITY DRUG EDUCATION/ABUSE PROGRAM

19A Oakland Center
Oakland University
Rochester, Michigan 48063
Phone: 377-3784

Director, William D. Epling, Jr.

Purpose of Agency and Services Offered:

Oakland University's program is designed to offer services which will provide educationally sound information and advising to the Oakland University community. Beyond this, the program will aid in developing and giving leadership to the Rochester and Avon Township communities for the establishment and operation of a drug-oriented treatment/education facility.

Specifically, the program will include a resource library, active referrals to community and campus agencies, seminars, displays, a speaker series , paraprofessional training and a pilot course on drugs and drug abuse.

Hours

8:00 a.m. to 5:00 p.m. -- Monday through Friday
Evenings by appointment

Contact Person

William D. Epling, Jr.

Supported By:

Oakland University, Oakland County Department of Drug Abuse Control

OAK PARK COMMUNITY SERVICES

13700 Oak Park Boulevard
Oak Park, Michigan 48237
Phone: 547-5355

Director, Ronald Pentz

Purpose of Agency and Services Offered

The basic purpose is to provide professional treatment for various social and emotional problems. Oak Park Community Service is primarily youth oriented, however, all members of the community are eligible. In addition to this service being free, an individual will normally receive immediate consultation.

Services include individual therapy, group therapy, family counseling, walk-in crisis intervention, drug analysis, drug abuse treatment, referrals and rap sessions. The agency also operates KODA (399-9000), a crisis intervention hotline.

Fees

None

Hours

9:00 a.m. - 10:00 p.m.	Monday through Friday	(Community Services)
6:00 p.m. - 10:00 p.m.	Thursday	(KODA Hotline)
6:00 p.m. - 2:00 a.m.	Friday & Saturday	

Supported By

Oak Park City Funds

PONTIAC DRUG ABUSE TREATMENT PROGRAM #1

Pontiac Methadone Maintenance Program
23 East Pike Street
Phone: 338-9618
338-9619

Program Administrator, George Caronis

Purpose of Agency and Services Offered:

The primary purpose of the Pontiac (Treatment) Program is a treatment service for heroin addicts. Persons admitted to the program will receive methadone maintenance administered on a daily basis. Social, re-education, and vocational training is included in the treatment-rehabilitation program.

Additional services offered include individual and group therapy, and complete physical and laboratory examinations.

Eligibility:

Eligibility of the Oakland County residents who volunteer for admission will be determined by the program's Medical Board.

Fees:

$5.00 per week, based on ability to pay.

Hours:

8:00 a.m. to 5:00 p.m.	Monday through Friday
9:00 a.m. to 12:00 p.m.	Saturday and Sunday

Contact Persons:

George Caronis, Program Administrator
Fred Spann, Senior Counselor

Supported By:

City of Pontiac, Oakland County Department of Drug Abuse Control, and the Oakland County Mental Health Services Board.

PROVIDENCE HOSPITAL

16001 West Nine Mile Road
Southfield, Michigan 48075

Phone: 424-3301
424-3305

Coordinator, Dr. A.R. Rickfelder, Ph.D.

Purpose of Agency and Services Offered:

Services include psychotherapy, psychiatric evaluation, consultation, education and training, and a drug program. The drug program offers short-term detoxification and a methadone maintenance program on a limited basis. Emergency services are available as well as referral for hospitalization. Rehabilitation includes individual, group, and family therapy in addition to referrals for academic or vocational counseling.

Eligibility:

South Oakland County residents, preferably age of 16 and over.

Fees:

Mental Health Services:	Ability to pay.	
Methadone Program:	Intake physical & lab exam	$41.00
	Methadone	1.00 per day
	Urinalysis	3.00 per week

Hours:

9:00 a.m. to 9:00 p.m.	Monday, Tuesday, Wednesday and Thursday
9:00 a.m. to 5:00 p.m.	Friday and Saturday
Emergency services	9:00 a.m. to 5:00 p.m., Monday through Saturday
Emergency room	24-hour service
Drug program intake	Monday and Thursday, 1:00 p.m.

Contact Persons:

Dr. A.R. Rickfelder, Ph.D.
Mr. Michael P. Colucci, A.C.S.W.

Supported By:

Oakland County Community Mental Health Services Board

RESIDENTS AWARENESS PROGRAM (RAP)

8100 Pontiac Lake Road
Pontiac, Michigan
Phone: 666-2720
Director, Mr. Bryce Swiler

Purpose of Agency and Services Offered:

RAP is based on the philosophy and concept similar to Phoenix House of New York City, dealing with self-reliance and self-help in a totally non-drug related atmosphere. From this will be provided a place where young people and adults can meet to talk meaningfully about those things which matter most to them, and help one another to reach out to discover the human bonds which join us all.

This program offers services including group counseling, residential services for a later date, and various group activities.

Hours:

12:00 p.m. to 9:00 p.m. Monday through Friday

Contact Person:

Bryce Swiler

Eligibility:

If under legal age, parental permission is needed. Residents of Independence Township, White Lake Township, Waterford Township and Springfield Township are eligible and also referrals of Oakland County Drug Abuse Control.

Supported By:

Independence Township, White Lake Township, Waterford Township, Springfield Township, Oakland County Department of Drug Abuse Control, and donations on a non-profit basis.

ROCHESTER SCHOOLS - BOARD OF EDUCATION

Fourth & Wilcox
Rochester, Michigan

Phone: 651-6210

Program Director, Dr. Harry Jones

Purpose of Agency and Services Offered:

The purpose of the Rochester School District Drug Program is to inform students, teachers and the community in the area of drug abuse.

Educational services include a parent-student training program in order to deal with drug education. Parents and students will then be available to go into the community to meet with small groups for the sharing of factual information and ideas.

Teacher training programs have been initiated with a primary objective of evolving a curriculum for system-wide installation.

Contact Person:

Dr. Harry Jones

Supported By:

Rochester School District, and Oakland County Department of Drug Abuse Control.

ROYAL OAK ALCOHOL & DRUG ABUSE CENTER

120 South Washington
Royal Oak, Michigan

Phone: 545-2725

Director, Robert W. Groves

Purpose of Agency and Services Offered:

To promote the establishment and maintenance of alcohol and drug abuse abatement programs by means of treatment, guidance, consultative services and education.

Services include diagnostic evaluation, group and individual therapy, family counseling, employment counseling, and casework services.

Eligibility:

Oakland County residents referred by District and/or Municipal Courts primarily. However, self-referrals are accepted.

Fees:

Alcohol and Drug Information School - 6 weeks - $30.00 service fee in lieu of fines determined by referring judge, agency, or A.D.A. program director.

Office Hours:

8:30 a.m. to 4:30 p.m.
&
7:00 p.m. to 9:00 p.m.

Monday through Friday

Contact Person:

Robert Groves

Supported By:

Thirteen Municipal and/or District Courts, service fees, Oakland County Department of Drug Abuse Control, and contributions.

ST. JOSEPH MERCY HOSPITAL

Substance Abuse Center
Pontiac, Michigan

Phone: 858-3000
Ext. 408, 409, 407

Director, Mr. Eric Nims

Purpose of Agency and Services Offered:

The purpose of the Drug Abuse Treatment Program is to provide emergency medical treatment and support services for drug abuse patients. A diversified therapeutic program is available which offers a variety of social, psychological, and vocational services. At present the emergency room can treat: heroin overdoses, barbituric overdoses, acute medical emergencies that are drug related, e.g. severe hepatitis, endocarditis, etc., hallucinogen overdoses that are life threatening. Opiate and barbiturate withdrawal and detoxification is provided, as well as outpatient opiate detoxification. Treatment is both medical and psychosocial.

Contact Person:

Eric Nims

Fees:

Based on income and ability to pay.

Age:

Program is specifically designed for the young narcotic abuser between the ages of 15 and 24. Long-term addictions of over 3 years are referred to other programs.

Supported By:

St. Joseph Mercy Hospital, Birmingham Junior League, the Hospital Auxiliary of St. Joseph Mercy Hospital, the Oakland County Department of Drug Abuse Control, the J.L. Hudson Company, and private donations.

SOUTHFIELD CENTER FOR DRUG STUDIES

Southfield Community Building
24366 Civic Center Drive
Southfield, Michigan 48076

Phone: 354-4864

Director, Thomas Frommeyer
356-1100, Ext. 234

Purpose of Agency and Services Offered:

The Southfield Youth Services Center for Drug Studies offers a number of programs intended to help people faced with a drug abuse problem as well as other family and personal problems.

The services are:

1. A structured youth-to-youth interaction program, premised on abstinence from non-prescriptive drugs. This program is modeled after the program of Oakland Community College Center for Drug Studies.
2. In-service training programs.
3. Speaking engagements.
4. Individual and family counseling.
5. Youth Employment Service.
6. Opportunity for individuals or groups to visit the Center and observe a structured program pertaining to drug use and control.

Fees:

None

Hours:

9:00 a.m. to 5:00 p.m.	Monday through Friday - Office Hours
3:00 p.m. to 11:00 p.m.	Monday through Thursday - Program Hours

Contact Person:

Thomas Frommeyer, Director
Jerrold Jaster, Coordinator

Supported By:

City of Southfield, Lathrup Village, Southfield Public Schools, the Oakland County Department of Drug Abuse Control, and contributions.

THRESHOLD -- CENTER FOR DRUG STUDIES AND COMMUNITY MENTAL HEALTH

723 Woodward Heights Drive
Hazel Park, Michigan

Phone: 543-4680

Director: Charles Bethea

Purpose of Agency and Services Offered:

The goal of the Center is considerably broader than simply stopping a person from abusing drugs. The goal, rather, is to enable individuals to make decisions about using drugs, family relationships, school, work and other areas of his life based on a mature, reasoned, realistic assessment of the alternatives open to him. When decisions are made, whether regarding use of drugs or anything else, the individual will be confronted with the consequences of his actions. If the consequences are positive and beneficial, or if they are negative and harmful, the person will be held responsible for his own actions and the consequences.

The goal is not to make any decision for anyone - including whether or not to use drugs. It is, rather, to educate and assist persons in making realistic, freely chosen decisions for themselves. The only thing that is insisted upon in this process, however, is that the person, therefore, take full responsibility for the consequences of his action - or inaction.

In a narrower sense, of course, a goal of the Center program is to graduate people, who are "clean" in regard to involvement with drugs, and who have become re-involved in a positive and beneficial manner, with their school, job, family and various other activities from which they have withdrawn during the period of drug usage.

Another purpose of the Center program is to familiarize the people of Hazel Park with the problem of drug abuse, and to involve these people in the overall solution of the problem. The Center is named the Center for Drug Studies for a purpose. It is intended to provide an educational service for persons interested in working in the area of drug abuse. For this reason, it should be strongly emphasized that all those persons who become involved in the Center activities are not necessarily drug users. Many are there to learn how to work effectively with friends, family, and programs.

Services Offered Include:

1) A structured program leading to problem identification--alleviation.
2) Individual Counseling
3) Group Counseling
4) Referral
5) Speaker's Bureau.
6) Classes - In-service Training Program
7) Local Center for Drug Abuse Information
8) Visitation Center.

Contact Persons:

Mr. Chuck Bethea
Mr. Larry Oberstein

Supported By:

The City of Hazel Park and The Oakland County Department of Drug Abuse Control.

TROY DRUG ALERT - PROJECT CHANGE

60 West Wattles
Box 273
Troy, MI 48084

Phone: 689-5752

Executive Director, Mr. Jon Latimer

Purpose of Agency and Services Offered:

Project Change provides a structured drug abatement program for young people.

Troy Drug Alert operates Project Change, as well as offering referral services, adult education in the areas of understanding and awareness, distribution of informational materials, and other educational/informational items.

Hours:

12:00 noon - 9:00 p.m.	Monday - Friday
By Appointment	Saturday & Sunday

Contact Persons:

Jon Latimer
James E. Sharp

Supported By:

City of Troy, Oakland County Department of Drug Abuse Control, Troy Kiwanis Club, Troy Rotary Club, Troy Junior Womens Club, Troy Newcomers Club, and other public/private contributions.

TROY SCHOOL DISTRICT

4400 Livernois
Troy, Michigan 48084

Phone: 879-1889

Coordinator, Martha DuShaw

Purpose of Agency and Services Offered:

The purpose of the Troy School District drug program is to educate the students, parents and teachers within the City of Troy.

Contact Person:

Martha DuShaw

Supported By:

Troy School District

TURNING POINT -- ROCHESTER CENTER FOR DRUG STUDIES

438 West University
Rochester, Michigan 48063

Phone: 651-1650

Executive Director: Jim Warner

Purpose of Agency and Services Offered:

Turning Point is a peer directed, self help awareness center. The philosophy of the center is, "People, given the opportunity and the environment, can and will help one another." Turning Point primarily operates on a peer group influence model that creates positive reinforcement and feedback by sharing among the participants of their own experiences, along with the development of options as to how a particular problem can be handled.

Other services that are available include: referral for any need (e.g. medical, legal, or religious), drug identification, parent education (including group interaction), and a speakers bureau.

Eligibility:

Turning Point is the only service available in the area operating on a peer level. There is no age limit for program participants. If help for a problem is not available here we will do everything in our power to get help for the individual from an outside source or from our professional referral list.

Contact Person:

Tim Murphy, Director

Supported By:

Private contributions, various non-profit organizations, Oakland County Department of Drug Abuse Control, Avon Township, and the City of Rochester.

Hours Open:

Monday through Thursday	12:30 p.m. to 9:30 p.m.
Friday	12:30 p.m. to 5:00 p.m.
By Appointment	Saturday and Sunday

WATERFORD SCHOOL DISTRICT

1325 Crescent Lake Road
Pontiac, Michigan 48054

Phone: 674-4241

Coordinator, Ms. Carol Pyke

Purpose of Agency and Services Offered:

The purpose of the Waterford Schools program is to implement the developed K-12 Drug Education curriculum, to aid school staffs in adopting procedures for dealing with drug users in the schools, and to provide counsel to administrative and counseling staff in placing student users in treatment programs.

The services of this program include a classroom resource to Waterford teachers and students, conducting in-service training programs in drug education to Waterford Schools' professional staff, a resource to community agencies desiring information or aid in drug education, and other services as requested and meeting valid criteria for inclusion in program.

Contact Person:

Ms. Carol Pyke

Supported By:

Waterford School District, Michigan Department of Education, and the Oakland County Department of Drug Abuse Control.

WEST BLOOMFIELD (P.A.D.)

c/o Church of Our Savior
6655 Middlebelt Road
West Bloomfield, Michigan 48033

Phone: 626-3013

Administrator: Rita Weiss

Purpose of Agency and Services Offered:

PAD's objectives are to provide young people with crisis intervention and counseling, individual or group therapy sessions for drug-related problems. The focus at PAD is youth involvement in alternatives to drugs, as part of a treatment modality, with the development of leadership through experiences such as art, crafts, drama and journalism. Community involvement is emphasized with the schools, police and church.

Parental participation in developing communications is promoted through a weekly meeting of parents.

Hours:

1:00 p.m. to 11:00 p.m.	Monday through Friday
10:00 a.m. to 12:00 Midnight	Saturday
1:00 p.m. to 10:00 p.m.	Sunday

Contact Person:

Rita Weiss

Supported By:

West Bloomfield United Fund, West Bloomfield Township, and Oakland County Department of Drug Abuse Control.

TOPIC #11: CORPORAL PUNISHMENT

PROBLEM:

Is Corporal Punishment permissible in schools?

DISCUSSION:

I. LAW

In Michigan, there is specific law authorizing teachers or administrators to use "such physical force as is necessary, on the person of any pupil for the purpose of maintaining proper discipline over the pupils in attendance at any school".

II. LIABILITY

A related statute has made teachers and administrators immune from any civil suit resulting in the use of such physical force. However, the immunity of liability does not extend to cases of "gross abuse and disregard for the health and safety of the pupil". (MCLA 340.757)

III: REASONABLE FORCE

Michigan teachers by statute may still use this form of punishment but must clearly avoid aggravated cases of "gross abuse". The problem in determining guidelines for teacher conduct in this area is determining what is a situation of "gross abuse"? A slap to the wrist or bottom would probably not be gross abuse but any greater action on the part of a teacher may be treading on thin ice since some federal judges have said that wanton or malicious physical punishment may open the teacher to civil or criminal liability.

Each case of corporal punishment will be judged on the merits of the specific case wherein it was meted out. Caution: What might be reasonable in one case may well be unreasonable with a different child.

IV: SUGGESTED PROCEDURES

It should be pointed out that the school's use of corporal punishment as much or more than any other function is contained within the traditional doctrine of "in loco parentis." School officials are advised, therefore, to specify in their student

codes of conduct how corporal punishment will be administered. The amount of force that is used must be reasonable and should reflect on the viability, legal, political and educational implications of such use. Provision for a witness to the punishment should also be stated.

TOPIC #12: UNAUTHORIZED PERSONNEL

PROBLEM:

What can school administrators do with regard to "unauthorized persons" on school property whether such persons be students, outsiders or both?

DISCUSSION:

I. LOCAL ORDINANCE

The best means of controlling the problem of unauthorized persons on school premises appears to be the enactment of a local ordinance. An examination of the pertinent law indicates that such laws will be upheld if the ordinance is drawn properly and carefully.

Courts have stated, with varying degrees of specificity and exhaustiveness, that the principle purpose of a school loitering statute is to protect the students, teachers, and school property from criminals and troublemakers, such as pornographers, narcotic peddlers, sexual degenerates and vandals. These problems are proper sources for the utilization of the police powers of local authorities in enacting ordinances covering school property. Such ordinances should specify in detail the following information:

A. What classes of persons are authorized or unauthorized to be on school property;

B. What reasons for being or staying there or for ordering someone to leave, are legitimate or illegitimate; and

C. What boundaries are covered by the prohibition.

We suggest that any school district or board interested in the passage of such an ordinance should pass a resolution directed to the local municipal legislative authority requesting such relief and should spell out in detail those factors stated above. A model ordinance is attached for your reference.

II. ABSENCE OF LOCAL ORDINANCE

In the absence of a local ordinance, school officials can invoke the provisions of the "No Trespassing" law in dealing with unauthorized visitors. The statute provides as follows:

> MSA 28.820(1). Entry upon lands of another after having been forbidden so to do; refusal to depart therefrom.
>
> Sec. 552. Any person who shall wilfully enter, upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 30 days or by a fine of not more than $50.00, or both, in the discretion of the court. (CL '48, §750.552.)

If a person so notified refuses to leave, call the police.

The "No Trespassing" law can be applied to students who return to school after their school day is completed to disturb classes or bother other students. We suggest that if your school has such a problem that your rules and regulations be amended to cover the unauthorized presence of students at such times on school property.

ORDINANCE NO._____

AN ORDINANCE TO PROHIBIT THE UNLAWFUL ENTERING OR REMAINING ON THE PREMISES OR PROPERTY OF ANY PUBLIC, PRIVATE OR PAROCHIAL SCHOOL LOCATED WITHIN THE CITY OF _____: AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.

THE CITY OF _____HEREBY ORDAINS:

PREAMBLE:

WHEREAS, the City of _____is concerned for the health, safety and welfare of pupils, teachers and school property located within the City of _____, and desires to protect said students, teachers and school property from criminals and troublemakers, such as pornographers, narcotic peddlers, sexual degenerates and vandals through the passage of this Ordinance.

SECTION I. UNLAWFUL ENTERING OR REMAINING ON THE PREMISES OR PROPERTY OF SCHOOLS LOCATED WITHIN THE CITY OF _____. EXCEPTION:

It shall be unlawful for any person not the parent or legal guardian of a pupil in regular attendance at any public, private or parochial school located within the City of _____, to enter or remain in any public, private or parochial school building or property in the City of _____, except when in attendance as a regularly enrolled student, teacher, administrator or employee, or when engaged in a school sponsored or permitted activity.

SECTION II. NOTICE OF VIOLATION: REFUSAL TO DEPART

A person shall be in violation of the provisions of this Ordinance whenever the following occurs:

A. When the chief administrative officer of any public, private or parochial school located within the City of _____, or his designee, notifies the person that he is such officer or designee and that the persons in violation of the provisions of this Ordinance; and

B. When the person is in fact in violation of this Ordinance; and

C. When, thereafter, such officer or designee directs the person to vacate the premises, building or property of the school; and

D. When the person thereafter wilfully remains in or on such premises, building or property.

SECTION III. PENALTY

Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than $500.00, or by incarceration in the County Jail for not more than 90 days, or both.

TOPIC #13: PRECAUTIONS IN TRANSPORTING STUDENTS

PROBLEM:

What precautions can a school take regarding the transportation of students for school functions?

DISCUSSION:

I. NON-SCHOOL BUS TRANSPORTATION

From time to time situations will arise where it will be necessary to transport students to school functions using private vehicles as opposed to school bus transportation. These situations include transportation by parent or student drivers for such purposes. We suggest the following steps be taken in these situations to greater insure the safety of all persons involved:

A. If a parent or student is going to provide transportation of students for school purposes, written permission and consent should first be obtained from all affected parents.

B. All drivers should provide the school with proof that they are properly licensed and insured to drive a motor vehicle in the State of Michigan. You should obtain the name, address, date of birth and driver's license number of the driver.

C. A driver's license record check can be made with the Secretary of State or your local police department by using the above obtained information.

D. NOTE: Fees for transportation provided by parents or students SHOULD NOT BE CHARGED. To charge a fee is to assume all of the responsibilities and liabilities of a common carrier, i.e. bus or cab.

II: SCHOOL BUS TRANSPORTATION

Laws pertaining to school bus drivers and school bus transportation are fully spelled out in the Michigan Motor Vehicle Code.

In order to comply with Section 305 of Act No. 74 of the Public Acts of 1972, local school districts must ensure that before any person drives a school bus, he or she must have passed annual physical and driver competency examinations. A four-part procedure has been approved by the State Board of Education and authorized for use by local school districts. Adherence to this procedure will ensure that the district is in compliance with the law. That procedure is presented as follows:

A. PHYSICAL EXAMINATION:

A physical examination certifying the physical fitness of a school bus driver, during a given school year or 60 days prior to that year will be held effective for that school year, unless a physical examination given at a later date reveals that the driver is physically unqualified to drive a school bus. However, a failure of the test terminates driver eligibility as of date of test.

B. KNOWLEDGE TEST:

A knowledge test prepared by the Michigan Department of Education and successfully passed by a school bus driver during a given school year or 60 days prior to that year will be held effective for the remainder of the school year. However, a failure of the test terminates driver eligibility as of date of test.

C. DRIVING RECORD:

A school district shall not employ any person as a school bus driver who has

accumulated 7 or more points on his or her driving record in the two years preceding employment. A school district official shall not knowingly continue employment as a school bus driver during any part of any succeeding school year a person who has accumulated 7 or more points on his or her driving record in the two years preceding a check of points as required below, or is under suspension or revocation by the Michigan Department of State.

D. DRIVER SKILLS ROAD TEST:

A driver skills road test administered as required by the Pupil Transportation Unit of the Michigan Department of Education and successfully passed by a school bus driver during a given school year or 60 days prior to that year will be held effective for the remainder of that school year, unless a driving skills examination administered at a later date reveals that the driver has become unqualified to safely drive a school bus.

Should an employed driver fail the driver skills road test, a failure of the test terminates driver eligibility as of date of the test.

III: INSURANCE COVERAGE

The question of insurance coverage in situations where students are transported for school functions by vehicles other than school buses should be directed to your insurance agent. Your insurance agent should be able to explain your coverage or lack of coverage and enable you to act accordingly.

TOPIC #14: DISTURBANCES AND CONTENTIONS

PROBLEM:

What can a school administrator do if a disturbance or contention is created in the school building?

DISCUSSION:

I. STATUTORY BASIS UNDER MICHIGAN LAW

It is a violation to "make or excite any disturbance or contention in any...public building..." "Any person who shall make or excite any disturbance or contention in any public building, grounds...shall be guilty of a misdemeanor."
(CL '48, §750.170.)

A school building is a public building and is covered by this statute. A disturbance means an interruption of peace and quiet, a violation of public order, or an interference with a person's lawful pursuit of his occupation or rights. Contention refers to actual or threatened violence. Thus fighting, the blocking of school entrances, sit-ins, or other disrupting conduct can be a violation of the "Disturbing the Peace" statute.

II. DISTURBANCES OR DEMONSTRATION PROCEDURES

Prevention of public disturbances should be of prime concern to the building administration. Taking necessary precautions will alleviate many difficulties arising from a disturbance. The following precautions are suggested:

A. If there is an indication of impending disruption, forewarn the police department and the school district superintendent.

B. The local police should be instructed to call any principal when they have information of a suspected disruption.

C. Information of a possible disturbance should, if possible, be confirmed by a reliable witness.

D. Develop a plan and inform faculty members of their responsibilities during a disturbance.

The building principal is in complete charge of his building and faculty. His staff should be aware of the chain of command in cases where the principal is absent from the building when a disturbance occurs.

III. DISRUPTION OR THREAT OF DISRUPTION BY NON-STUDENT GROUPS

Normal classroom operations should be maintained. Students shall not be released or permitted to leave the classroom until released by the building principal. The following precautions are suggested:

A. If the disturbance is outside the building, students should be kept away from the windows.

B. Students should be advised of the situation through normal channels of communication.

C. Upon determination of disturbance, the building principal or his designee shall:

1) Meet with the disrupter(s) and attempt to resolve the matter.

2) Upon failure of (a), the disrupter(s) shall be notified they are in violation of state law (MSA 28.3675) or the appropriate local ordinance. The disrupter(s) shall be requested to leave the school property.

3) If disrupter(s) do not leave the principal shall:

   a. Call the police;
   b. Call the school superintendent.

4) The building principal and police shall determine best course of action to resolve the problem.

No student or student group should be utilized to calm any disturbance that might place the students in a situation where physical harm might occur, or that would jeopardize their normal relationship with their fellow students.

IV. DISRUPTION OR THREAT OF DISRUPTION BY A SCHOOL GROUP

Normal classroom operations should be maintained. Students shall not be released or permitted to leave the classroom until released by the building principal.

A. If the disturbance is outside the building, students should be kept away from the windows.

B. Students should be advised of the situation through normal channels of communication.

C. Unauthorized student demonstrations, and the procedures to be followed, should be covered in the school's rules and regulations governing student conduct.

TOPIC #15: BOMB THREATS

PROBLEM:

What should a school administrator do when a bomb threat is received?

DISCUSSION:

I. BOMB THREATS

A grave concern to administrators is what to do when a bomb threat is made to their building. While most threats are unfounded, none can be taken lightly, and a school administrator must act to protect the safety of the students and staff. A uniform procedure to deal with this problem should be worked out for the entire school district. The following is a sample Bomb Threat Procedure which may be used as a guideline for schools.

II. IN CASE OF A BOMB THREAT

The person receiving a phone call should obtain as many details as possible about the bomb and its location. Legitimate callers usually wish to avoid injury or death; request more data by expressing a desire to save lives.

A. Check list for individual receiving call. Obtain following information.

1) Exact location of bomb.

2) Time bomb is set for detonation.

3) What does the bomb look like?

4) What is the explosive?

5) Why was it placed?

6) Age of caller; adolescent or adult.

B. Building principal or his designee IMMEDIATELY CALL:

1) Police Department - Phone #_____

2) Fire Department - Phone #_____

C. The principal should announce the fact of a bomb threat, BY A PREVIOUSLY DETERMINED CODE, over the P.A. system to all teachers.

1) Assigned teachers are to conduct a search of their designated areas as per Section VI.

2) Custodial staff members are to conduct a search in storerooms, boiler room, etc.

D. The decision to have students and staff evacuate the building will be made by the building principal, based on evaluation of the situation.

III. <u>WHEN THE DECISION TO EVACUATE THE BUILDING IS MADE</u>

A. The principal or his designee shall sound the fire alarm.

B. Evacuate the building of all students and staff. They must be kept at least 300 feet from the building and are not to stand in roads, driveways, or walkways which may be used by police or fire department vehicles.

C. Teachers are to make a visual check of their classrooms prior to evacuation. DO NOT TOUCH ANYTHING SUSPICIOUS.

IV. ACTUAL BOMB DISCOVERY IN THE BUILDING OR GROUNDS

A. Evacuate building as per procedure outlined in Section III above.

B. Do not handle or move the bomb.

C. IMMEDIATELY CALL:

1) Police Department - Phone #_____

2) Fire Department - Phone #_____

V. INVESTIGATOR'S REPORT (To be filled out for the Investigating Officer.) Report should contain the following information:

A. Date and time of telephone call.

B. Exact Words used by Caller.

C. Male, Female, Adult, Child, Estimated Age and Race.

D. Speech (check one of the following if applicable.)

1) Slow
2) Rapid
3) Normal
4) Excited
5) Loud
6) Disguised
7) Broken
8) Sincere
9) Describe Accent

E. Backround noises.

F. Name of person receiving the call.

Note: Do not discuss the call with anyone other than the building principal or his appointed designee.

VI. POSSIBLE BOMB LOCATIONS AND STAFF ASSIGNMENTS

The following form could be used to assign staff personnel to possible bomb locations which require searching.

LOCATION	STAFF MEMBER ASSIGNED
1) Corridors and entries:	
2) Cafeteria, dishwashing room, Kitchen, cafeteria storerooms:	
3) Teachers' Room:	
4) Boys' Lavatory:	
5) Girls' Lavatory:	
6) Industrial Arts Area:	
7) Art Area:	
8) Teachers' (men) Lavatory:	
9) Teachers' (women) Lavatory:	
10) Janitor closets, disposal room, boiler room, tunnel:	
11) Empty Classrooms:	
12) Waste containers in corridors and lavatories:	
13) Gym and Pool Area:	
14) Outside perimeter of building:	
15) Other:_____	
_____	
_____	

TOPIC #16: SCHOOL SECURITY

PROBLEM:

What steps can schools take to increase security?

DISCUSSION:

Security in the schools encompasses many areas. These include the physical plant, students, staff, and property within the building. The security of school property also goes beyond the school day and includes all periods of time after classroom hours, including after-school activities and athletic events. The losses that a school district suffers is directly proportionate to the amount and type of security procedures it implements.

I. SECURITY DEVICES

Many school districts are now installing various types of alarms to combat vandalism and unlawful entries. The implementation of such devices has greatly reduced loss of property due to these two crimes.

The most popular device presently in use is a combination of listening post and door-window alarm keys. Information on these devices can be obtained from any reputable alarm company.

II. SECURITY PRECAUTIONS

Installation of the above devices will increase the security of your building but there are other steps you can take:

A. Record serial numbers on valuable property in your building and also engrave your principal's driver's license number on this property. Keep this information in

a central file. (Driver's license number is suggested because it is the only number that can be immediately fed into a statewide police computer.)

An alternative number could be your school code number given your school district by the State Board of Education. This would be useful if your principal was unavailable or had been replaced.

B. Set aside a secure room in your building (one without windows and preferably one door) and require that the school staff place valuable school equipment in this "property room" daily.

C. Reduce the number of master keys throughout your building.

D. Check your building for defective locks on doors and windows periodically.

E. Notify the police when theft occurs. If the local police department is not aware of crime in your school, they cannot give added patrol to the area to prevent re-occurrence.

F. Discuss your concern for security with your local police department. Presently, more and more police departments are involved in implementing "crime prevention programs" in the community.

G. Ask your local police to make as many buildings and grounds checks as possible. This technique will be especially effective if the police vary their schedule of unannounced checks.

H. Try to keep the school grounds and buildings as well lighted as possible.

III. AFTER-SCHOOL SECURITY

Athletic events and after-school activities also fall within the area of school security. Some school districts are able to supplement their staff at these functions with off-duty police officers or with private security guards. Many times the mere presence of such personnel can stop problems before they occur.

TOPIC #17: TRAFFIC AND PARKING CONTROL

PROBLEM:

What authority, if any, does a school board or district have to control the use of motor vehicles on school property?

DISCUSSION:

I. SCHOOL BOARD RULES AND REGULATIONS

It is safe to say, in light of the broad powers which school boards have, that a board can make rules and regulations to control the use of student motor vehicles. A school board, operating under statutory authority, has the power to control pupils on and off school property during or after regular school hours if the control is based on any of the following factors: (1) the control has a direct relation to the orderly operation of the school, (2) to the promotion of a sound educational program, or (3) to the safety and welfare of faculty and students.

As long as local rules and regulations are based on promotion of any of the above listed factors, the courts will not disturb or set aside rules and regulations adopted pursuant to these goals.

II. MUNICIPAL ORDINANCES

The state legislature has adopted enabling legislation which allows local municipal bodies to adopt ordinances to regulate the operation, parking, and speed of motor vehicles upon the property of school districts. The statement of this authority is contained in Act 175 of the Public Acts of 1958 (MSA 9.2660) which reads as follows:

§9.2660. Operation of motor vehicles on school property; power of municipal authorities to regulate; resolution requesting ordinance.

Sec. 1. Every municipal legislative authority wherein the properties of any board of education, school district or community college district is situated shall have the authority to adopt ordinances governing the operation, parking without fees and the speed of motor vehicles upon the property of such board of education, school district, or community college district for the purpose of enforcement and the imposing penalties for the violation thereof in the same manner as other ordinances of the municipal legislative authority are enforced. No municipal legislative authority shall adopt such ordinances without first receiving a resolution from the board of education, school district, or board of trustees of the community college district, over whose property the ordinances shall apply requesting the adoption of such ordinances.
(CL '48, §257.961.)

NOTE: Careful attention should be paid to the last sentence of the above quoted Act which requires a resolution from the board of education or school district to the municipal legislative authority requesting an ordinance from that body to cover school property. Without the passage of such a resolution, any ordinances adopted pursuant to the statute would be invalid and unenforceable.

TOPIC #18: MEDICAL CARE OF STUDENTS

PROBLEM:

What are the laws that pertain to the medical care of students?

DISCUSSION:

I. ADMINISTRATION OF MEDICATION

A statement of the applicable law is contained in Act 157 of the Public Acts of 1971 (MCLA §340.378) which reads as follows:

> §340.378. Administration of medication to student, liability.
>
> Sec. 378. A school administrator or teacher who in good faith administers medication to a student in the presence of another adult pursuant to written permission of the student's parents or guardian and in compliance with the instructions of a physician is not liable in any criminal action or for any civil damages as a result of the administering except for acts or omissions amounting to gross negligence or wilful or wanton misconduct.

We believe that the terms of the above quoted statute should be strictly followed and that the physician's instructions with respect to the administration of medication should be obtained in writing. Further, we stress that in those cases where school personnel are asked to administer medication over a period of time, the request for termination of such activity should be confirmed in writing by the student's parents or physician.

II. MINOR'S CONSENT TO MEDICAL TREATMENT

A minor may consent, without notice to the parent, to receive medical care for the treatment of drug addiction (MCLA 335.231) and venereal disease (MCLA 329.221). The treating doctor may, but is not obligated to, inform the spouse, parent, custodian or guardian of the minor about the treatment given or needed.

III. IMMUNIZATION TREATMENTS TO CHILDREN AGAINST CERTAIN DISEASES

In no instance shall a health officer or any member of his staff give immunization treatments to any child without the written consent of one of the parents or the guardian nor shall he give immunization treatments to any child whose parents or guardian have religious objections to such treatments (MCLA 329.501).

IV. CAN SCHOOL AUTHORITIES CONSENT TO MEDICAL AID WITHOUT A PARENT'S CONSENT?

A school cannot consent to medical treatment by a doctor for a child without the consent of a parent or guardian. A doctor cannot treat a child without the consent of a parent or guardian unless it is a matter of life and death or permitted by statute. (For example, a minor can legitimately consent to treatment for drug abuse, drug overdose, and venereal disease.)

V. REPORTING INJURIES RESULTING FROM SUSPECTED CHILD ABUSE

See Section on Child Abuse and Neglect, Topic #2.

TOPIC #19: MARRIED AND/OR PREGNANT STUDENTS

PROBLEM:

What can a school do if a female student becomes pregnant? How can schools deal with married students?

DISCUSSION:

I. CURRENT LAW AND PRACTICE

MCLA 388.391; MSA 15.1958(11). Prohibit the suspension, expulsion or exclusion of a student from school solely on account of the student's pregnancy.

The statutory language pertaining to pregnant students is set forth as follows:

....MSA 15.1958(11). Pregnancy insufficient for expulsion or exculsion from public school.

Sec. 1. A person, who has not completed high school, may not be expelled or excluded from a public school because of being pregnant.

....MSA 15.1958(12). Withdrawal from public school.

Sec. 2. A pregnant person who is under the compulsory school age may withdraw from a regular public school program in accordance with rules promulgated by the state board of education.

....MSA 15.1958(13). Alternative educational programs, reimbursement.

Sec. 3. A local school district may develop and provide an accredited alternative educational program for persons who are pregnant and voluntarily withdraw from the regular public school program, or a local

school district offering an educational program required by this Act. A local school district shall be reimbursed for these programs in accordance with Section 12 of Act No. 321 of the Public Acts of 1957, as amended, being Sections 388.622 of the Compiled Laws of 1948. (CL '48, §388.393.)

....MSA 15.1958(14). Promulgation of rules.

Sec. 4. The state board of education shall promulgate rules to implement this Act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being Sections 24.201 to 24.315 of the Compiled Laws of 1948. (CL '48, §388.394.)

Michigan Law, however, while protecting the rights of pregnant students is silent regarding married students; the practices of individual school districts have varied. Some districts have excluded married students regardless of their age; some districts have required married students to enroll in an adult school or an alternative educational setting; and, some districts have ignored marital status as a criteria for student discipline and attendance. The courts also are of little benefit regarding this issue. Two of the more notable cases in this area have in one case upheld the married student's right to remain in school and in the other upheld the local board's decision to exclude the married student. (Board of Education of Harrodsburg v. Bentley, 383SW2d 677 (Ky Ct App. 1964) (upheld student). State ex nel. Thompson v. Marion County Board of Education, 202 Tenn 29, 302 SW2d 57 (1957) (upheld Board of Education).

The Michigan Attorney General, however, in a recent letter opinion, interprets a Michigan Supreme Court ruling of 1960 (Board of Education of Harrodsburg v. Bentley, 383SW2d 677 (Ky Ct App. 1964) (upheld student). State ex nel. Thompson v. Marion County Board of Education, 202 Tenn 29, 302 SW2d 57 (1957) (upheld Board of Education), as

"that married students could not be excluded from school solely because of their marital status." (Cochrane v. Mesick Consolidated School District Board of Education, 360 Mich 390; 103 NW2d 569 (1960)). Concerning the exclusion of married or pregnant stduents from extra-curricular activities, the Attorney General further states "...that there is no controlling authority by either the Michigan Supreme Court or the United States Supreme Court on this point". (Letter of Opinion of Michigan Attorney General, Nov. 1, 1972, supra.) Finally, the Attorney General rules that "...(a) rule or regulation that would bar married and/or pregnant students from participation in extra-curricular activities solely because of their marital and/or pregnant status and based upon nothing more, under the decided cases, would be unreasonable and arbitrary". (Ibid) Hence, it is not authorized under Section 514 of the School Code.

It should be noted that opinions of the Attorney General are binding upon school officials as state officers. (See Traverse City School District v. Attorney General, 384 Mich 390, 410 n.2; 185 NW2d, 9, 17, n.2(1971))

II. ASSISTANCE AVAILABLE

County facilities for the caring of pregnant high school students are as yet unavailable in Oakland. Some facilities are provided by the Michigan Department of Social Services on a state-wide basis. Private agencies and religious organizations do provide homes for pregnant teenagers.

Adoption services for new born infants are available through public and private agencies. The Oakland County Probate Court provides adoption information and assistance.

A complete listing and description of all such services can be obtained in the Oakland County Directory of Human Resources. Copies may be obtained by writing:

Oakland County Youth Assistance
1200 North Telegraph Road
Pontiac, Michigan 48053

TOPIC #20: PARENTAL RESPONSIBILITY FOR VANDALISM

PROBLEM:

How can a school district obtain restitution from the parents of vandals?

DISCUSSION:

Under Michigan Law, any school district may recover damages in an amount not to exceed $1,500.00 against the parent of an unemancipated minor. This applies to minors who reside with the parent and who have maliciously or wilfully destroyed real or personal property, or who have maliciously or wilfully caused bodily harm or injury to a person.

The exact statutory language is set forth as follows:

MSA 27A.2913. Actions for malicious destruction of property or bodily injury by minors.

Sec. 2913. A municipal corporation, county, township, village, school district, department of the state, person, partnership, corporation, association, or an incorporated or unincorporated religious organization may recover damages in an amount not to exceed $1,500.00 in a civil action in a court of competent jurisdiction against the parents or parent of an unemancipated minor, living with his parents or parent, who has maliciously or wilfully destroyed real, personal or mixed property which belongs to the municipal corporation, county, township, village, school district, department of the state, person, partnership, corporation, association, or religious organization incorporated or unincorporated or who has maliciously or wilfully caused bodily harm or injury to a person.

As a suggestion, parents first should be contacted by letter informing them of their statutory liability and requested to make restitution. All vandalism should be carefully reported and documented. A sample form is attached for your reference, page 84.

If negotiating the claim for vandalism fails with the responsible relative, the claim should be turned over to your civil counsel for institution of legal proceedings.

VANDALISM, THEFT
BREAKING and ENTERING REPORT FORM

SCHOOL_____ Date of Report_____

DESCRIPTION OF INCIDENT:

Location of Incident_____

_____

Description of Act_____

_____

How it Happened_____

_____

PERSON DISCOVERING INCIDENT_____ _____
Name Position

DATE/TIME OF DISCOVERY_____ _____, 19___, _____ a.m. p.m.
Month Date

WAS POLICE DEPARTMENT NOTIFIED? _____ Yes _____ No

THE FOLLOWING ITEMS WERE DAMAGED OR STOLEN:

Item	Damaged	Stolen	Value	Serial/Model No.

ADDITIONAL INFORMATION_____

_____

_____

_____
Principal's Signature

Yellow: Business Mgr. Green: Liaison Officer Blue: Dir. of Ed.
White: Originator

TOPIC #21: LIABILITY (EXPANDED)

PROBLEM:

Under what circumstances can a school district be sued? When is a teacher considered legally negligent? Does negligence always result in teacher liability? Does it make any difference if a student is also negligent?

CAVEAT: The Oakland County Prosecutor's office offers this topic on Liability for the express purpose of acquainting educators with an overview of the subject. It is not intended to be an exhaustive treatise on the subject, nor, by any means, is it intended to take the place of advice given on this subject by the school board attorney. Ours is an introduction to the subject only.

DISCUSSION:

I. THE SCHOOL DISTRICT

As a general rule, a school district or board of education is not liable, in the absence of a statute, for injuries or damages caused by the negligence of its employees in carrying out their duties. The basis of this doctrine is a principle in law known as "governmental immunity".

> MSA 3.996(107). Governmental function; immunity from tort liability; immunity of state.
>
> Sec. 7. Except as in this act otherwise provided, all governmental agencies shall be immune from tort liability in all cases wherein the government agency is engaged in the exercise or discharge of a governmental function. Except as otherwise provided herein, this act shall not be construed as modifying or restricting the immunity of the state from tort liability as it existed heretofore, which immunity is affirmed.

The state legislature has authorized, however, suits for negligence with regard to the defective maintenance of public buildings when there is reason to believe that the district knew of such a defect. Further, a suit may be instituted for damages caused by the negligent operation of vehicles owned by the school district. (MSA 3.996(106); (MSA 3.996(105)

A school district, school board, superintendent and the principal are also protected from liability provided the act in question relates to a governmental function rather than a proprietary function. (See Williams v. Detroit, 364 Mich 231; 111 NW2d 1 (1961))

The cases are numerous in attempting to draw distinctions as to which city functions are "governmental" and which are "proprietary".

A. "Governmental Functions" are those which can be performed adequately only by the government - police, fire, courts, public schools, etc.

B. "Proprietary Functions" are those which the city performs, but which could as well be provided by a private corporation, particularly where the city derives revenue from the operation - water, gas, electricity, public halls.

The Michigan Court of Appeals recently was asked to decide if a school's football program was a governmental or a proprietary function. The school in question charged admission for games and conceivably could have made a profit on the program. The court held however, in Lovitt v. Concord School District, 228 NW2d 479(May 8, 1975), that athletic activities, such as the football program were

inherently educational: a governmental function without a doubt. The incidental profit or revenue does not operate to change the character of that function. Thus, the court held that the school district, superintendent, principal were immune from liability for the death of one high school student and another's permanent injury resulting from heat prostration in a practice session.

To protect against the loss of public funds through payment of a judgment following a lawsuit, the legislature has provided for the purchase of liability insurance by a school district or board.

NOTE: Teachers may be covered by such insurance as provided in the following Michigan Statute.

MSA 3.996(109). Liability insurance: effect.

Sec. 9. The purchase of liability insurance to indemnify and protect governmental agencies against loss or to protect government agencies and some or all of its agents, officers, and employees against loss on account of any judgment secured against it, or them, arising out of any claims for personal injury or property damage caused by such governmental agency, its officers, or employees, is authorized, and all governmental agencies are authorized to pay premiums for the insurance out of current funds. The existence of any policy of insurance indemnifying any governmental agency against liability for damages is not a waiver of any defense otherwise available to the governmental agency in the defense of the claim.
(CL '48, §691.1409.)

II. TEACHER'S LIABILITY

Many articles on teacher responsibility and pupil injury create the impression that teaching is a dangerous profession. The articles suggest the hazards are greater, negligence is more likely, and the results of negligence more disastrous for teachers than for other people. This is seriously distorted. The true facts are that the legal principles which apply to teachers whose negligence may lead to the injury of a pupil are similar to those that apply to anyone whose negligence may cause injury. There are, however, some Michigan laws that specifically limit teacher liability in certain civil actions.

The attached statutes on this vital question are set forth:

....MCLA 340.755. Physical force to take possession of dangerous weapons from pupils.

Sec. 755. Any teacher or superintendent may use such physical force as may be necessary to take possession from any pupil of any dangerous weapon carried by him.

....MCLA 340.756. Physical force to maintain proper discipline over pupils.

Sec. 756. Any teacher or superintendent may use such physical force as is necessary on the person of any pupil for the purpose of maintaining proper discipline over the pupils in attendance at any school.

....MCLA 340.757. Liability for use of physical force; gross abuse.

Sec. 757. No teacher or superintendent shall be liable to any pupil, his parent or guardian in any civil action for the use of physical force on the person of any pupil for the purposes prescribed in Sections 755 and 756 of this Act, as amended, except in case of gross abuse and disregard for the health and safety of the pupil.

III. WHAT IS A TORT?

We realize the following explanation of negligence is not only lengthy, but also legally esoteric. However, we feel it is necessary in this problem to develop a complete introduction on the subject so that Section V on this problem will be placed in proper context.

A. TORT IN GENERAL:

In the language of the law, our concern is with the "tort liability" of a principal, teacher, etc. A tort is: "...a wrongful act, not including a breach of contract or trust, which results in injury to anothers person, property, reputation, or the like, and for, which the injured party is entitled to compensation."

Torts may be either intentional or unintentional. Intentional torts are injuries to another person resulting from actions designed to harm that person. Such conduct is sometimes called "willful". Similar to willful conduct, at least in the eyes of the law, is "wanton" conduct which occurs when a person acts in a manner that is so reckless that injury to another is likely to result. There need not, however, be an intent to harm a particular individual.

Our real concern is, therefore, with unintentional torts. Such torts result from negligent conduct. Negligence is: "...the failure to exercise that degree of

care which, under the circumstances, the law requires for the protection of other persons...".

Stated differently, negligence is the absence of care. It may be either active or passive; that is, an act of commission or an act of omission - something you do that you should not have done or something you do not do that you should have done.

As noted in Cianci v. Board of Education of City Sch. Dist. of Rye, 238 N.Y.S.2d 547 (1963): "Quite apart from any liability imposed by statute, under the common law there was imposed upon her as the principal, both the duty to be reasonably vigilant in the supervision of the pupils and the liability for her negligent performance of such duty".

B. ELEMENTS - NEGLIGENCE:

When a course of conduct entails the risk of substantial harm to another, a legal duty to exercise due care exists. If due care is not in fact exercised and this is the proximate cause of substantial damage, then there is liability in negligence.

Thus, the elements of the tort of negligence are:

1. A legal duty of due care;

2. Failure to live up to the standard of due care;

3. This failure of due care constitutes the "proximate cause" of;

4. Substantial damage.

The meaning and applicability of each of these elements is discussed in the next section.

In order for a principal or teacher to be liable in negligence, a plaintiff must prove the existence of all the above listed elements. Proximately causing substantial damage is not enough for negligence to exist in the law. Injury without negligence is considered "accidental" under the law.

C. DEFINITION OF TERMS:

1. Duty of Care:

Whenever a person can reasonably forsee that his affirmative conduc' is likely to cause substantial damage to others unless he exercises care, he is under a legal duty to exercise reasonable care to avoid the injury.

2. Breach of Duty of Care:

When a duty of care exists, this does not mean that the defendant is necessarily liable if the anticipated injury in fact does occur. What is required further is that the defendant in fact failed to live up to the standard of care required of him by law. That standard of care does not require the defendant to remove all risk from the plaintiff, but simply to take reasonable care to minimize the likelihood of injury.

When there is a duty of care, - that is, when the defendant must exercise the care that is due - due care means the care that a hypothetical "reasonable man" would exert under similar circumstances. When a defendant fails to

exercise the duty of care as a "reasonable man" would have exercised under all the attendant circumstances, and damage results from this breach, liability arises.

3. Proximate Cause:

Even if the first two elements are established, there is no liability unless the breach of duty "proximately caused" the injury. In its simplest terms, the issue is whether or not the injury would have occurred regardless of the defendant's actions. If it would have, the defendant did not "proximately cause" the injury, no matter how derelict in his duties.

4. Damages:

The whole idea of a suit in negligence is to compensate a person for loss suffered by the defendant's negligence. If no damage was caused, there can be no recovery, for the law of negligence requires actual damage or loss, not compensation for disliking the conduct of the defendant.

IV. NEGLIGENCE IN A SCHOOL SETTING

The concept of negligence in a school setting is no different than that which applies to any individual whose negligence may cause injury in a non-school setting. Before a teacher can be held liable, the four elements of negligence (duty of care, breach of that duty, proximately causing a resulting damage) must be established.

In an article in Scholastic Teacher Magazine, March, 1974 by David Schimmel, Professor of Education at the University of Massachusetts in Amhurst, the concept of teacher liability is succinctly set forth. The article emphasizes that teachers are in no greater danger of liability than anyone else.

The Author and Scholastic Magazines, Inc. has granted us permission to reprint the article in its entirety. We gratefully acknowledge both his expertise and cooperation in this regard. (Reprinted by permission of the Author from Scholastic Teacher Magazine, 1974, by Scholastic Magazines, Inc.)

Pages 132-134 have been removed due to poor legibility. They contained a journal reprint: "Can You Be Sued If a Student Gets Hurt?" by David Schimmel (Scholastic Teacher, March 1974).

TOPIC #22: SEARCH AND SEIZURE

PROBLEM:

Can teachers and administrators search a student or locker? Are school personnel subject to the same requirements as police officers when conducting a search?

DISCUSSION:

I. CONSTITUTIONAL REQUIREMENTS

The Fourth Amendment to the United States Constitution guarantees "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures..." "Wherever an individual may harbor a reasonable 'expectation of privacy,' ...he is entitled to be free from unreasonable governmental intrusion." (United States Supreme Court.)

Only unreasonable searches and seizures are barred. What is reasonable or unreasonable will be determined by the facts of each case.

II. SEARCH AND SEIZURE OF ADULTS BY POLICE OFFICERS

Unless the police adhere to strict constitutional guidelines of recent court decisions, any evidence seized by them will not be admitted into a court of law. Adults may consent to searches, but the courts will scrutinize the consent to determine if it was freely and voluntarily given.

III. SEARCH AND SEIZURE OF JUVENILES BY POLICE OFFICERS

When dealing with searches of juveniles, as opposed to adults, the courts are more careful in examining the conduct of police officers. What may be a perfectly proper consent search of an adult, may not be valid for a juvenile. The court will apply the "Totality of Circumstances" test and consider the child's age, past experiences, whether his parents were present and agreed. The court may even raise the question whether a juvenile can waive any right at all. Juveniles are so protected by the law that before any fingerprints or photographs of a child are used in a juvenile hearing, a court order must be obtained.

IV. SEARCH AND SEIZURE OF JUVENILES BY SCHOOL PERSONNEL

A. IN LOCO PARENTIS

School officials and teachers act in loco parentis, i.e. they are charged with a parents' rights, duties and responsibilities. Accordingly, the administrator or teacher has an affirmative duty to act for the welfare of the individual child as well as the obligation of protecting all students in school emergency situations such as bomb threats, reports of the presence of illegal drugs, weapons, reports of theft, etc.

B. STUDENT'S RIGHTS

Students possess the right of privacy of person as well as freedom from unreasonable search and seizure of property guaranteed by the Fourth Amendment of the U.S. Constitution. That individual right, however, is balanced

by the school's responsibility to protect the health, safety and welfare of all its students. The most relevant of recent court decisions (People v. Overton, 24 NY2d 522; 249 NE2d 366; 301 NYS2d 479(1969). In re Donaldson, 269 Cal App 509; 75 Cal Rptr 220 (D Ct App, 1969). State in the interest of G.C., 121 NJ Super 108,296 A2d 102 (Cty Ct. 1972)) uphold school official's actions in this regard, specifically recognizing the right of school officials to search student lockers when "suspicion arises that something of an illegal nature may be secreted there". (People v. Overton, supra, 24 NY2d, at 524; 249 NE2d, at 301 NYS2d, at 480); (People v. Ward, Docket #19899, Michigan Court of Appeals (June 10, 1975))

V. SEARCH AND SEIZURE IN A SCHOOL SETTING

A. Is a school official a "private citizen" to whom the prohibitions of the Fourth Amendment do not apply? Or is the school official a "governmental official" or "agent" to whom the Fourth Amendment does apply?

In a most recent decision (June 10, 1975), the Michigan Court of Appeals held school administrators and teachers are governmental officials to whom the Fourth Amendment and the exclusionary rule of evidence applies. People v. Ward, Docket #19899, Michigan Court of Appeals (June 10, 1975), held on this point as follows:

"The threshold question is whether the personal search of a student by a public high school official, without the aid of or joint action with, state law enforcement officials, is subject to the Fourth Amendment's prohibition against unreasonable

searches and seizures? Evidence secured by a search and seizure in violation of the Fourth Amendment of the Federal Constitution is, through the operation of the Due Process Clause of the Fourteenth Amendment, inadmissible in a state court. Mapp v. Ohio, 367 US 653; 81 S Ct 1684; 6 L Ed 2d 1081(1961). This prohibition against unreasonable searches and seizures, however, applies only to governmental action. Burdeau v. McDowell, 256 US 465; 41 S Ct 574; 65 L Ed 1048(1921). Therefore, if the school administrator in this case is considered a private individual, the evidence obtained is admissible into evidence regardless of whether his actions were reasonable or unreasonable. See People v. Harry James Smith, 31 Mich App 366; 188 NW2d 16(1971).

The United States Supreme Court, in Goss v. Lopez, ____US____,____; 95 S Ct 729, 736; ____L Ed 2d ____,____(1975), pointed out that:

> "Young people do not "'shed their constitutional rights' at the schoolhouse door. Tinker v. Des Moines Community School District, 393 US 503, 506; 89 S Ct 733, 736; 21 L Ed 2d 731 (1969). "'The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures *** Boards of Education not excepted.' West Virginia v. Barnette, 319 US 624, 637; 63 S Ct 1178, 1185; 87 L Ed 1628 (1943)."

In other words, "public high school students do have substantive and procedural rights while at school," Wood v. Strickland,

____US____,____;____S Ct____,____;____
L Ed 2d ____,____; 43 LW 4293, 4299 (1975)
(citations omitted) and it would be
inconsistent to say that a public high
school principal, acting in that capacity
on school property during school hours, is
not a state official for purposes of the
Fourth Amendment. This is not to say,
however, that the law of search and seizure,
as applied to law enforcement agencies,
is incorporated into Michigan's school
system."

B. Under what circumstances is a search of a student's person or locker "reasonable" under the Fourth Amendment?

Having decided that the Fourth Amendment's prohibition on unreasonable search and seizure applies to school authorities, the Court of Appeals in People v. Ward, supra, went on to define the standards of legality to be applied to searches of students by school personnel:

"The Fourth Amendment to the United States Constitution and Article 1, § 11 of the Michigan Constitution prohibit unreasonable searches and seizures and provide that warrants will not issue without probable cause. Generally, a search of private property, unless consented to or authorized by a valid search warrant, is unreasonable. This warrant requirement is excused where there are exigent circumstances. See, e.g. Warden v. Hayden, 387 US 294; 18 L Ed 2d 782; 87 S Ct- 1642(1967) (hot Pursuit). Moreover, certain conduct, such as border searches, see Almeida-Sanchez v. United States, 413 US 266; 93 S Ct 2535; 37 L Ed 2d 596 (1973), and

"stop and frisk", see Terry v. Ohio, 392 US 1; 88 S Ct 1868; 20 L Ed 2d 889 (1968), has been recognized as not being subject to the warrant procedure. Such action requires less than probable cause but is still tested by the Fourth Amendments' proscription against unreasonable searches and seizures. Reasonableness is determined by "balancing the need to search against the invasion which the search entails." Camera v. Municipal Court, 387 US 523; 87 S Ct 1727; 18 L Ed 930 (1967).

School officials stand in a unique position with respect to their students. They possess many of the powers and responsibilities of parents to enable them to control conduct in their schools. See Ginsberg v. New York, 390 US 629, 639; 88 S Ct 1247; 20 L Ed 2d 195 (1968). At times, the powers and responsibilities regarding discipline and the maintenance of an educational atmosphere may conflict with fundamental constitutional safeguards. A student cannot be subjected to unreasonable searches and seizures. On the otherhand, the public interest in maintaining an effective system of education and the more immediate interest of a school official in protecting the well-being of the students entrusted to his supervision against the omnipresent dangers of drug abuse must be considered. In striking a balance, we adopt a "reasonable suspicion" standard. See In re State in Interest of G.C., 121 NJ Super, 108; 296 A2d 102 (1972), People v. v. Jackson, 65 Misc 2d 909; 319 NYS2d 731 (1971), affirmed 30 NY2d 734; 333 MYS2d 167; 284 NE2d 153 (1972), State v. Baccino, 282 A 2d 869 (Del Super, 1971). Could the principal in this case have reasonably suspected that defendant had drugs on his

person when he required defendant to empty his pockets? We think so."

A reading of People v. Ward, supra, clearly establishes that the doctrine of in loco parentis is not dead in Michigan. The Court of Appeals recognized this relationship in holding a school official to a lesser burden of "reasonableness", i.e. reasonable suspicion, as the basis for a search than that degree of "reasonableness", i.e. probable cause, required of police officers.

In Ward, the Coordinator of Discipline of a city high school, acting with a high degree of suspicion, but short of probable cause, searched this student and found him in possession of a set of narcotics "works". While a student has the right to be free of unreasonable search and seizure, school authorities, in view of the "distinct relationship" between them and their students and the right of parents to expect that certain safeguards will be taken, have "the affirmative obligation of the school authorities to investigate any charge that a student is using or possessing narcotics", which "becomes a duty when suspicion arises" (People v. Overton, 20 NY2d 360, 362-363, 283 NYS2d 22, 24-25, 229 NE2d 596, 597-598; see also, Moore v. Student Affairs Committee, D.C., 284 F Supp. 725, 729-730).

A school official, standing in loco parentis to the children entrusted to his care, has inter alia, the long honored obligation to protect them while in his charge, so far as possible, from harmful and dangerous influences. This certainly encompasses the bringing to school by one of them of narcotics and "works", whether for sale to other students or for administering such to himself or other students. (People v. Jackson, 319 NYS2d 731, 733(1971) cited as controlling in People v. Ward, supra.).

CAVEAT: Any school official who conducts a search of a student's person or locker should be aware of and be able to articulate the basis of his "reasonable suspicion". In this regard, prior contacts and reputation of the student would be relevant.

C. Have the courts upheld any student searches by school officials based on the "reasonable suspicion" standard?

People v. Ward, Docket #19899, Michigan Court of Appeals (June 10, 1974);

FACTS: A teacher at a high school informed defendant's guidance counselor that he had seen defendant selling and passing pills in school on a number of occasions. Defendant's counselor, in turn, reported this to the school's principal the following afternoon. The principal attempted to locate defendant but he had already left school. The following morning, defendant was called into the principal's office. Present with defendant were the principal, an assistant principal, defendant's counselor, the coordinator of student activities and a security guard employed by the Board of Education.

Defendant was asked by the principal whether he brought or sold any drugs in school. The defendant denied ever using drugs or ever bringing drugs to school. Defendant was then asked to empty his pockets and when he hesitated, the principal threatened defendant with a personal search. Defendant then produced a bottle of pills from his pocket. The principal called the police and defendant was arrested.

HOLDING: The search was valid: the principal could have "reasonably suspected" that defendant had drugs on his person when he required defendant to empty his pockets.

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People v. Jackson, 319 NYS2d 731(1971);

FACTS: The Coordinator of Discipline at a city high school received information which caused him to proceed to a certain classroom. He sought out the defendant, a student, in the room and requested that he accompany him to his office. The defendant did so willingly. En route, the Coordinator observed a bulge in the defendant's left pants pocket and further observed him continually putting his hand in and taking it out of the pocket.

As they neared his office, the defendant bolted for the door at the outside of the school. As he did this, the Coordinator noticed a policeman standing in front of his office and called out to him, "he's got junk and he's escaping." With that, the Coordinator pursued the defendant and caught up with him three blocks from the school.

The Coordinator grabbed the defendant who still had his left hand in his left side pants pocket. Grasping the defendant's wrist, the latter's hand came out revealing the nipple of an eyedropper with other material clenched in his fist. The Coordinator held defendant's wrist and said, "give that to me"; thereupon the Coordinator opened his hand and found a set of "works", syringe, eyedropper, etc. This material, the subject matter of the motion to suppress, was then turned over to the police officer who also had pursued the boy and came upon the scene at that moment.

HOLDING: Where high school coordinator of discipline had reasonable suspicion, not probable cause to believe, that student had narcotics on his person, coordinator was entitled to search student and seize narcotics he discovered when he apprehended the student after three-block chase which began inside school building.

Further, where student, fearing impending search of his person by coordinator of discipline, fled high school building, coordinator of discipline was entitled, under in loco parentis doctrine, to give chase and to apprehend the student off the school premises in order to make search.

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State v. Baccino, 282 A2d 869(1971);

FACTS: Defendant was brought to the Vice Principal's office after being found out of class illegally. At the time the defendant was carrying a coat; the Vice Principal took the coat from the defendant to make sure that the defendant would go to class.

Prior to the Vice Principal obtaining possession of the coat, there was a tug-of-war over it, with the Vice Principal winning. Because the defendant was out of class illegally, and because the defendant was known to the Vice Principal to have experimented with drugs in the past, the Vice Principal made a search of the coat, finding ten packets of hashish. The police were called and the defendant was arrested for possession of a dangerous drug with intent to sell.

HOLDING: High school Vice Principal, who knew that defendant was out of class illegally, and had experimented with drugs in the past, had reasonable suspicion to believe that defendant's jacket contained contraband, and thus defendant's motion to suppress hashish discovered by principal in search of defendant's coat would be denied.

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In re State in the Interest of G.C., 296 A2d 102(1972);

FACTS: On February 7, 1972, the principal of the public high school that G.C. attended received a telephone call from an unidentified person. The caller reported that G.C. had been selling pills that morning in the girls room. The following morning, a student approached one of the teachers at the school and informed her that the juvenile had a partially filled plastic container of white pills and was trying to sell them to other students. The teacher reported this to the principal who then had G.C. brought into his office. Upon her arrival she was informed of the charges made against her, and the principal stated that it was his duty to investigate the reports in order to protect the student body and her reputation. G.C. denied the allegations and agreed to cooperate in a search of her person.

A female teacher was then summoned to the office in order to carry out the search. The juvenile emptied her pockets and, upon the principal's request, she permitted the female teacher to feel her pockets to make certain that they were empty. G.C. was next asked

to empty her purse. She agreed and dumped the contents of the purse onto the principal's desk. He asked if she would consent to his looking into the purse. Without further comment, she unzipped a compartment in her purse, and tossed a partially filled container of white pills onto the desk. The juvenile was then asked if she would reveal the names of any students that she had sold pills to, or at least the names of those students who might take an overdose. G.C. responded with the name of one student.

The principal then sent for a police officer to ascertain the nature of the pills discovered. An officer arrived and after conducting a field examination stated that the pills appeared to be amphetamines. A subsequent laboratory analysis confirmed this.

HOLDING: In light of reasonable suspicion that public school student was illegally in possession of and selling dangerous drugs and in view of overall fairness of investigation and search that public school principal, acting as a governmental officer and under the in loco parentis authority, made, there was reasonable search and seizure not violative of the Fourth Amendment so that seized evidence did not need to be suppressed.

VI. SUGGESTED PROCEDURES

It is suggested the following determinations be made by school officials relative to the seizure of items in the student's possession and the search of the school property (locker, desk) assigned to the student.

A. There is reasonable suspicion to believe that possession constitutes a crime or rule violation, or that the student possesses evidence of a crime or violation of law.

B. There is reason to believe that the student is using his/her locker or property in such a way as to endanger his/her own health or safety or the health, safety and rights of others.

C. There is reason or belief that there are weapons or dangerous materials on the school premises. As such school officials must retain the right to act - to search students' desk and/or lockers, and to seize in cases of emergencies - such as in the event of fire or a bomb threat.

When locker checks are made in the exercise of fundamental school authority, students should be informed within the context of general school rules at the beginning of each term. The rules should detail those items prohibited from possession on school premises which are viewed to pose dangers to the health and safety of all students and school personnel, and even those which might tend to disrupt the educational process.

The rules should also state that unannounced periodic spot locker checks will be made throughout the year.

In cases of clearly defined emergencies and the lack of availability of the students assigned to a locker, the principal or his designees possess the authority to enter. The student, however, should be informed as soon as possible.

TOPIC #23: INTERROGATION OF STUDENTS

PROBLEM:

Are school personnel subject to the same requirements as the police when they interrogate students?

DISCUSSION:

I. INTERROGATION OF ADULTS BY POLICE

Under the Miranda Decision, issued by the United States Supreme Court in 1966, Police Officers, prior to questioning any person suspected of a criminal act, must advise such persons of certain constitutional rights, as follows:

MIRANDA WARNING:

1. You have the right to remain silent.

2. Anything you say can and will be used against you in a court of law.

3. You have a right to talk to a lawyer before answering any questions and you have the right to have a lawyer present with you while you are answering any questions.

4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.

5. You have the right to decide at any time before or during questioning to use your right to remain silent and your right to talk with a lawyer while you are being questioned.

After the warning, and in order to secure a waiver of rights, the following questions should be asked by the police officer and a reply secured to each question:

1. Do you understand each of these rights I have explained to you?

2. Do you want to talk to a lawyer before any questions?

3. Will you waive your right to remain silent and answer any questions we may ask you?

II: INTERROGATION OF JUVENILES BY POLICE

Notwithstanding the proper reading and waiver procedure outlined above, any confession or statement made by a juvenile to a police officer will also be scrutinized by the court to consider whether or not the student knowingly, intelligently and voluntarily waived his right to remain silent.

The court will apply the "Totality of the Circumstances" test, and consider such factors as age, maturity, intelligence, advice, parental presence and consent.

If the juvenile court finds that the necessary safeguards have been met, the statement will be admitted into evidence. If not, the juvenile court will suppress the statements.

Police in the schools are not necessarily an indication of trouble, disruption, or discontent. Police can enter the school upon invitation of school authorities. However, they may also enter if they possess evidence of a crime having been committed or if they have a warrant for arrest or search. Interrogation of students by police is to take place privately within the school and in the presence of the principal or his representative. Parents, and/or guardians are to be informed and should be present whenever possible. The Michigan Attorney General has stated:

1. "Law enforcement officers may be given access to school children on school property during school hours for the purpose of interrogation pursuant to a rule or regulation adopted by the board of education of a school district subject to such conditions as the board of education in its discretion may reasonably impose."

2. "Law enforcement officers are empowered to arrest a person without a warrant, including children, in the case of a felony where the officer has reasonable cause to believe that the person has committed a felony or a misdemeanor committed in the officer's presence. A rule of the board of education of a school district which would permit (a) law enforcement officer to remove a student from the public schools only upon presentation of a warrant is not in accordance with law."
((OAG, 1961 - 1962, No. 3537, p 155 (September 8, 1961))

III: INTERROGATION OF JUVENILES BY SCHOOL PERSONNEL

Under Michigan law, there is no requirement for school personnel to advise any student of his "rights" before interrogation.

As one court said "the calling of a student to the principal's office for questioning is not an "arrest" and he is not then in custody of police or other law enforcement officials. This situation does not fall within the scope of the Miranda decision as the Supreme Court has limited it".

In Michigan, school personnel, although acting in loco parentis, are not police officers, and are not subject to the police restrictions as set forth in the first two Sections of this Topic.

IV: LEGISLATIVE TRENDS

We have all witnessed how "juvenile rights" protections have grown, both in the courts as well as within school discipline hearings.

Some courts decisions (not Michigan however) have applied the same requirements to school personnel as to police officers, based on the premise that if a student is being interrogated because the finger of suspicion has focused upon him, and such interrogation is primarily designed for the purpose of eliciting incriminating statements to be used at a juvenile hearing, then the standard Miranda warnings must be given.

The same courts however have made the following distinction: If the school official is questioning a student pursuant to his administrative in loco parentis responsibilities, as opposed to attempting to act as a law enforcement officer, then the standard criminal procedure requirements are not mandated.

TOPIC #24: CONTROL AND CUSTODY OF EVIDENCE

PROBLEM:

What should a school administrator do if he has seized certain items from a student which will be introduced in trial at a later date?

DISCUSSION:

I. CONTROL AND CUSTODY OF EVIDENCE

The conduct of trials and hearings in both juvenile and circuit court are controlled by rules of evidence. These rules apply to the presentation and introduction of exhibits at trial. With regard to items such as stolen property, narcotics, weapons or other evidence of criminal conduct, the law provides certain safe-guards regarding their admissibility into trial. In connection therewith a school administrator who takes possession of such an item must be careful that his actions will not interfere with the later attempt to introduce the evidence into trial.

II. SUGGESTED PROCEDURE

If a weapon or a suspected drug is obtained from a student, the item should be kept in the custody and under the sole control, if possible, of that administrator who discovered it. All items should be marked with the initials of the person who obtained them as well as the date which possession was taken. Suspected narcotics, for example, could be placed in an envelope, sealed and then the envelope marked as above indicated. A property tag can be attached to other items and marked accordingly. Items should be kept in a locked desk or storage closet until turned over to police.

III. REASON FOR THE RULE

The reason for the rule which protects the chain and custody of evidence is to insure that such evidence is properly related to the party from whom it was seized and that it remains uncontaminated and as near as possible in its original state. Many good cases can be lost by failing to follow this simple procedure of properly marking evidence and maintaining good control over these objects.

TOPIC #25: STUDENT'S RIGHTS

PROBLEM:

Do students have rights? If so, what are they and what are the limitations?

DISCUSSION:

The Supreme Court of the United States has stated clearly that students in elementary and secondary schools enjoy the same general constitutional rights, including rights relative to procedural and substantive due process, as do other citizens.

> "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the school house gate."
> ((Tinker v. DesMoines Independent Community School District, 393 U.S. 503, 89 S Ct. 733 (1967))

I: SUBSTANTIVE DUE PROCESS

Substantive due process involves the subject matter of a regulation. Thus, in a school haircut case, substantive due process requirements would relate to questions of whether hair length is properly a subject for regulation.

A few major areas of substantive rights that the courts have addressed themselves to are as follows:

A. PUBLIC EDUCATION

All children, including the mentally and physically handicapped, have the right to a free public education. Some courts have held that schools cannot charge fees for books and extra curricular activities. The Michigan Supreme Court held that most fees may not be charged for anything that is "an integral, fundamental part of the elementary and secondary education". ((Bond v. Ann Arbor School District, 383 Mich 693 (1970))

B. FIRST AMENDMENT RIGHTS

1) Armbands: An Iowa school expelled students as "unduly disruptive" for wearing armbands. The Supreme Court held that the armband protest did not "materially and substantially" disrupt the work and discipline of the school; therefore, the expulsion and prohibition was unconstitutional.
(Tinker v. DesMoines Independent Community School District, Supra)

The question that will always remain is when is a form of expression substantially disruptive?

2) Leaflets: Courts have held that passing out leaflets in the classroom is materially disruptive. Leaflet distribution in the hallways is a more complex problem. Although this would not interfere with classes it might substantially interfere with traffic in the halls and delay students from getting to class on time. However, if there are various literature tables set up in a lobby, the prohibition against handing out leaflets at one of the tables which expresses a view contrary to the administration's thinking would probably be held unconstitutional.

3) Newspaper: Can a principal require students to submit newspaper copies to him for approval in advance of distribution? No, unless there are clearly defined reasons that set forth the procedures by which prior approval must be obtained.

Michigan school law does not deal with this issue. Case law in Michigan is not instructive. One case brought to trial within the state, for example, was dismissed prior to a judgment. In that case, a high school student was suspended for distributing an "underground" newspaper loosely connected to students and ex-students of Michigan State University. When the student brought

suit against the school district, school officials agreed to rewrite the policy in question and reinstate the student.

Perhaps the most instructive case for Michigan school officials in the area involved some Illinois high school students who, at their own expense, published and distributed a publication called "Grass High." The publication, among other things, contained an article that was quite critical of some school officials. Subsequently, the students involved were permanently suspended from school under the authority of a statute very similar to Michigan School Code Section 613. The students, in due course, sued the school district and were subsequently upheld in the Seventh U.S. Circuit Court of Appeals.

School officials concerned with these issues would be well-advised to study this case in full. To summarize, the Court found (1) that no substantial disruption or material interference with the school's procedures had occurred, and (2) that while the article reflected a "disrespectful and tasteless attitude toward authority," the school board's disciplinary action constituted "an unjustified invasion of (the students') First and Fourteenth Amendment rights." ((See Scoville v. Board of Education of Joliet Township High School District, 425 F2d10 (CA7), Cert Den 400 U.S. 826; 91 S Ct 51; 27 L Ed 55 (1970); See also; Burnside v. Byars, 363 F2d 744 (CA5, 1966), Pickering v. Board of Education of Township High School District V, 205, 391 US 563; 88 S Ct 1731; 20 L Ed 2d 811 (1968))

4) Sit-Downs, Sit-Ins: Schools can adopt rules and regulations as to Sit-Ins. Courts have held that they are materially and substantially disruptive.

5) Patriotic and Religious Activities: The courts have generally upheld students who choose not to participate in school-initiated or sponsored patriotic observances and practices, for whatever their reasons. (West Virginia State Board of Education v. Barnette, supra) School Districts should therefore adopt procedures for accommodating these students in order that the corresponding rights of those students who do choose to participate are protected.

Regarding religious observances and practices in the public schools, the Supreme Court has decided that the following activities are prohibited:

a) Released time for religious instruction on public school property during the school day; ((Illinois ex nel. McCollum v. Board of Education, 333US203; 68SCt461; 92SCt649 (1948). But see, Zolach v. Clauson, 343US306, 72SCt679,96LEd2d 954 (1952))

b) Recitation of religious prayers on public school property during the school day; ((Engel v. Vitale, 370US421; 82SCt1261; 8LEd2d601 (1962))

c) Readings from the bible on public school property during the school day. ((School District of Abington Township v. Schempp, 374US203, 83SCt1560, 10LEd2d844 (1963))

C. SCHOOL DRESS CODES

There has been a split of authority on whether schools can regulate the length of a student's hair or the height of a student's skirt. In Michigan, schools are permitted to regulate personal appearance of students in the classroom under strict guidelines.

A very recent Michigan case indicates the nature of these guidelines.

"The purpose of a school is to educate and train its students. Any rules and regulations must be for this purpose. The purpose of the hair dress code is to legislate style or fashion, and unless it can be shown that this regulation has something to do with establishment, maintenance, management and carrying on the public schools - including regulations relative to conduct of pupils concerning their safety while in attendance at school, or enroute, and is of a reasonable nature, this dress code, concerning hair must fall. The court can find no reasonable connection between the dress code, relative to hair, and the authority of the Board to make rules and regulations under MSA15.3614". (MCLA 340.614) ((Graber v. Kniola, 52 Mich AOP 269; 210 LE2d 925 (1974))

D. THE CHARGING OF FEES AND THE WITHHOLDING OF GRADES, CREDITS, DIPLOMAS AND TRANSCRIPTS

Though not usually associated with the larger area of student's rights and responsibilities, a constantly recurring problem for school officials and students alike concerns the traditional school response to the loss or damage of school-owned textbooks or other education materials. To illustrate: a student accused of losing or damaging a textbook is sometimes told by school administrators that his grades (and/or credits, diplomas, transcripts) will be withheld until either the book is recovered or appropriate financial restitution is made.

The administrative problem schools face in attempting to recover such financial losses is admittedly a difficult one. The apparently small cost represented by one lost or stolen testbook when multiplied by many incidents over many years becomes a significant amount of money. Nevertheless, school officials who utilize this traditional administrative method of recouping losses may encounter legal difficulties.

By way of explanation, it must first be understood that local school districts "may charge students for damage to books and supplies, over and above ordinary wear and tear, and for the loss of books and supplies." (Memorandum from a Michigan Assistant Attorney General, dated August 12, 1970)

However, there are two separate issues that speak to the practice of withholding a student's grades or diploma for charges owed to the school.

1) The Michigan Attorney General has declared "that a board of education of a school district is without authority as a disciplinary measure, to withhold a high school diploma of a student who has fulfilled all the academic requirements for graduation." ((11 OAG, 1959-1960, No 3545, p 114, 11[illegible] (August 29, 1960))

2) A legal opinion holds that credits earned by a pupil are valuable, thus property. As property, the opinion states, the credits cannot be summarily taken away from or deprive the student without violating the due process clause of the 14th Amendment to the Constitution of the United States. ((Steele v. Sexton, 253 Mich 32;

E. FRATERNITIES, SORORITIES AND SECRET SOCIETIES

Sections 921-924 of the Michigan School Code declare the illegality of public school students organizing, joinging or belonging to fraternities, sororities or other secret societies. Further, the law authorizes the suspension or expulsion of students who are in violation and denies academic credit to such students. School officials and school board members who knowingly consent to, or permit, such student violations are also in violation of the law.

II: PROCEDURAL DUE PROCESS

A. NATURE OF RIGHT

Procedural due process relates to the means or methods involved in implementing and enforcing a regulation. Procedural due process requires

that, before any person's individual rights are adversely affected by a decision of a school administrator or board, the decision making body must have jurisdiction. Further, the person is entitled to reasonable notice and a fair hearing regarding a breach of the school regulation.

B. POWER OF LOCAL SCHOOL BOARDS OF EDUCATION

(1955) P.A. 269 MCLA 340.1 et. seq; MSA 15.3001, et. seg is known as the School Code.

Section 614 of the Michigan School Code authorizes local boards of education to enact

> "...reasonable rules and regulations relative to anything whatever necessary for the proper establishment, maintenance, management and carrying on of the public schools of such district, including regulations relative to the conduct of pupils concerning their safety while in attendance at school or enroute to and from school."

By the authority of Section 613 of the Michigan School Code, local school boards:

> "...may authorize or order the suspension or expulsion from school of (a) pupil guilty of gross misdemeanor or persistent disobedience (when) in its judgment the interests of the school may demand it. ..."

C. AUTHORITY OF THE STATE BOARD OF EDUCATION

The State Board of Education, under its leadership obligations, believes the issue of students' rights and responsibilities to be an important matter, but one best administered by local school districts. The State Board to this point has restricted its official action in this area to simply requiring local districts to adopt written codes of student conduct. The test of the Board's resolution dated December 9, 1970, is as follows:

(that) ...school districts be required, by April 1, 1971, to notify the State Board of Education that the local board of education had adopted, or is adopting, a Code of Student Conduct which code identified categories of misconduct, defines the conditions under which students may be suspended or expelled, and specifies the procedural due process safeguards which will be utilized in the implementation of the locally-adopted student conduct codes..."

D. RIGHTS OF STUDENTS

In January, 1975, the United States Supreme Court spelled out what it meant by due process of law as it applies to the suspension and expulsion of public school students. (Incredibly, the highest Courts of our land made it quite clear that it has now assumed the responsibility and indicated a willingness to get involved in the day-to-day operation of our school systems.)

Most Michigan school systems have been providing aspects of due process to their students for many years without benefit of U.S. Supreme Court dictates. But the Goss Case of the U.S. Supreme Court now provides the first actual due process requirements set down by the nation's highest court for the handling of student discipline cases.

Goss v. Lopes, Opinion No. 73-898, decided January 22, 1975, 95 S Ct. 729, held that a student who is suspended for up to 10 days without a hearing has been denied due process of law. The United States Supreme Court then went on to establish "minimum procedures" to be used in the suspension of a student.

Mr. Justice White, writing for the majority, stated that

"The very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." This is tantamount to saying that each case must be decided on its own set of circumstances. While the Court ordinarily does not spell out a standardized procedure, it was suprisingly specific in this case:

> At the very minimum, therefore, students facing suspension and the consequent interferences with a protected property interest must be given some kind of notice and afforded some kind of hearing. (Emphasis, the Court's.)... The student must be given oral or written notice of the charges against him, and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. There need be no delay between the time "notice" is given and the time of the hearing. In most cases, the disciplinarian may informally discuss the alleged misconduct with the student minutes after it has occurred. We hold ... that the student first be told what he is accused of doing and what the basis of the accusation is.

The majority went on to say, however, that there may be situations in which prior notice and hearing cannot be mandated. Those students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. But in those cases, the necessary notice and 'rudimentary hearing' should follow 'as soon as practicable.' And the more serious the charge, the more careful must the principal be in seeing that fundamental fairness is present at every step of the procedure.

The majority stopped short of insisting that the student must be given, as a matter of due process, the opportunity to secure counsel, to confront and cross-examine witnesses, or to call his own witnesses to verify his version of the incident.

> To impose in each case even truncated trial-type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool, but also destroy its effectiveness as part of the teaching process.

On the other hand, the Court noted that requiring the principal to permit the student to tell his side of the story, 'will provide a meaningful hedge against erroneous action. At least, the disciplinarian will be alerted to the existence of disputes about facts and arguments about cause and effect,' thus reducing the chance of error.

The Court emphasized that its opinion here applied only to the short suspension, not exceeding 10 days. 'Longer suspensions or expulsions for the remainder of the school term, or permanently, may require more formal procedures.' Finally, the Court added, 'there may even be situations involving only a suspension where the student is entitled to more than the rudimentary procedures outlined in this case."

E. SUGGESTED PROCEDURES

The State Board of Education in its publication "Students Rights and Responsibilities in Michigan" has suggested minimum due process procedures for suspension and expulsion of students. A review of these proposals seems consistent with the Goss case and are set forth as follows:

Length of Suspension	Who Suspends	Procedural Due Process Requirements
1-5 school days	Principal upon delegation of authority of board of education	a. informal meeting with principal prior to suspension b. student presented with charges, evidence and witnesses, if any, against him c. student given opportunity to deny charges, rebut evidence and question accusers and witnesses d. unfavorable decision may be appealed to superintendent or his designee
6-10 school days	Superintendent upon recommendation of principal and with delegated authority of board of education	a. informal hearing with superintendent or person designated by the local school board b. student presented with charges, evidence and witnesses, if any, against him c. student given opportunity to deny charges, rebut evidence and question accusers and witnesses d. student entitled to present own witnesses or to be represented by an attorney e. unfavorable decision may be appealed to local board of education
More than 10 school days	Board of Education upon recommendation of superintendent	Same as expulsion

TOPIC #26: LIABILITY OF SCHOOL OFFICIALS UNDER THE CIVIL RIGHTS ACT

PROBLEM:

Are school officials immune from liability for damages under Section 1983 of the Civil Rights Act without proof of malice on their part?

DISCUSSION:

I. THE LAW - CIVIL RIGHTS ACT, 42 USCA, SECTION 1983

Section 1983 of the Civil Rights Act (42 USCA, Section 1983) was originally enacted by Congress to prevent racial discrimination after the Civil War. It provides as follows:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress. (42 USCA, Section 1983)

II. THE CASE - WOOD v. STRICKLAND, OPINION NO. 73-1285, DECIDED FEB. 25, 1975; 95 S Ct. 992

In the past years, the Civil Rights Act has been widely invoked not only by pupils but also by teachers seeking injunctive relief against school boards, as in the case for reinstatement after suspension. There has been considerable disagreement, however, whether public or school officials could be held personally liable for damages unless it was proven that their action was based on malicious intent.

In Wood v. Strickland, 95 S Ct. 992(1975), the United States Supreme Court held that while on the basis of common-law tradition and public policy, school officials are entitled to a qualified good-faith immunity from liability for damages under Section 1983; they are not immune from such liability if they knew or reasonably should have known that the action they took within their sphere of official responsibility would violate the constitutional rights of the student affected, or if they took the action with the malicious intention to cause a deprivation of such rights or other injury to the student. But a compensatory award will be appropriate only if the school officials acted with such an impermissible motivation or with such disregard of the student's clearly established constitutional rights that their action cannot reasonably be characterized as being in good faith.

This decision seems to require an ever increasing need for school officials to be well versed on current constitutional principles in the area of constitutional law. Increased reliance by school officials on legal counsel concerning the legal validity of school rules and their consequent enforcement seems appropriate.

TOPIC #27: AGE OF MAJORITY

PROBLEM:

How does the Age of Majority Act affect schools?

DISCUSSION:

On January 1, 1972, Act No. 79 of the Public Acts of 1971, lowered the age of majority for Michigan citizens from 21 years to 18 years. Since that time, school officials have often asked what considerations, if any, pertaining to student discipline must be or should be given those students who become legal adults prior to their departure from the public schools.

To be sure, there are several implications for school officials, but, generally, the administration of student discipline is not affected by the new law. In other words, in most cases, the age of the student is not a factor in the school's regulation of student conduct. If, for example, school officials wish to totally prohibit student smoking in school buildings, it makes no legal difference whether the student is 15, 18 or even older.

The same would apply to rules prohibiting "adult" students from drinking alcoholic beverages on their lunch hour or bringing alcohol into the school.

TOPIC #28: FIRE DRILLS

PROBLEM:

Is there a law on fire drills?

DISCUSSION:

The Fire Prevention Act (MCLA 29.19) provides as follows:

MSA Section 4.559(19) Fire drills in schools and dormitories; record; number; other public buildings; protective apparatus or equipment.

Sec. 19. The superintendent, principal, and teacher in all grades of public and private school, and the owner, or owner's representative, of school dormitories shall have a fire drill each month and keep all doors and exits unlocked during school hours, and when the school is open to the public, and it shall be the duty of each teacher to comply with these requirements and to keep a record of (the) drills. A minimum of 10 drills is required for each school year. However, if weather conditions will not permit fire drills to be held at least once a month, then at least 6 fire drills shall be held in the fall of each year and 4 fire drills shall be held during the remaining part of the school year. The (director) or any officer serving under him, the chief of the fire department or (a) fireman in uniform acting under orders and directions of the fire chief, shall have the right to cause fire drills to be held in school houses, school dormitories, and other public buildings as the (director) shall deem advisable. The (director) may order the installation of other protective apparatus or equipment as shall conform to recognized and approved modern practices.

A P P E N D I X

I

An up-to-date Listing of Oakland County Juvenile Court Personnel

* * * * *

The following is an up-to-date listing (June, 1975) of Juvenile Court Personnel. All court personnel, as well as all caseworkers and youth assistance personnel are listed.

JUVENILE COURT PERSONNEL:

Hon. Donald E. Adams	858-0285
Hon. Norman R. Barnard	858-0290
Hon. Eugene Arthur Moore	858-0250
Hon. John J. O'Brien	858-0040
James W. Hunt, Director of Juvenile Services	858-0245
John E. Dowsett, Assistant Director of Juvenile Services	858-0247
Earl L. Koonce, Administrative Assistant	858-0256
Isaac C. Prevette, Jr., Court Referee	858-0219

J.R. Hodson, Court Referee	858-0220
James McFarland, Court Referee	858-0221
Eugene Thompson, Traffic Referee	858-0059
Ed Gorney, Supervisor, Intake Department	858-0038
Donald W. Rolph, Supervisor Adoption & Foster Care	858-0032
Ray Sharp, Coordinator, Volunteer Case Aide	858-0043
Andrew Yang, Director Psychological Clinic	858-0066
James VanLeuven, Director of Children's Village	858-1164
James Wuertenberg, Camp Oakland	628-2561

JUVENILE COURT CASEWORK PERSONNEL:

SCHOOL DISTRICT	AREA SUPERVISORS	CASEWORKERS	TELEPHONE NUMBER
Avondale	Callihan	Daniel Ambrose	858-0235
		Zella Benson	858-0225
Berkley	Karla	Robert Hopp	399-2660
		Betty Murphey	399-2660
Birmingham	Lanard	Conrad Welsing	858-0232
Bloomfield Hills	Lanard	Conrad Welsing	858-0232
Brandon(Ortonville)	Coyle	John Luke	858-0231
		Maureen Baker	858-0228
Clarkston	Coyle	John Luke	858-0231
		Maureen Baker	858-0228
Clawson	Karla	Peter Balzerini	399-2660
		Betty Murphey	399-2660
Clarenceville (Farmington Township)	Lanard	Conrad Welsing	858-0232
Farmington	Lanard	Conrad Welsing	858-0232
Ferndale	Karla	Eugene Willis	399-2660
		Arlene Mendez	399-2660
Hazel Park	Karla	Eugene Willis	399-2660
		Arlene Mendez	399-2660
Holly	Lanard	Ken Wyatt	858-0236
		Julie Collom	858-0224
Huron Valley (Union Lake, Milford, Commerce Twp.)	Lanard	Ken Wyatt	858-0236
		Julie Collom	858-0224

SCHOOL DISTRICT	AREA SUPERVISORS	CASEWORKERS	TELEPHONE NUMBER
Lake Orion	Coyle	Ronald Auten	858-0237
		Zella Benson	858-0225
Lamphere	Karla	Jon Clapp	399-2660
		Betty Murphey	399-2660
Madison	Karla	Jon Clapp	399-2660
		Betty Murphey	399-2660
Northville	Lanard	Ken Wyatt	858-0236
Novi	Lanard	Ken Wyatt	858-0236
Oak Park	Karla	Robert Hopp	399-2660
		Arlene Mendez	399-2660
Oxford	Coyle	Ronald Auten	858-0237
		Zella Benson	858-0226
Pontiac	Callihan	Daniel Ambrose	858-0235
		Chris Hunt	858-0233
		John Ward	858-0216
		Gwen Manning	858-0217
		Jeff Hyde	858-0212
		Judy Dowdal	858-0209
		Beverly Moore	858-0212
Rochester	Coyle	Zella Benson	858-0025
Royal Oak	Karla	Peter Balzerini	399-2660
		Betty Murphey	399-2660
Southfield	Karla	Robert Hopp	399-2660
South Lyon	Lanard	Ken Wyatt	858-0236
		Julie Collom	858-0224
Troy	Karla	Jon Clapp	399-2660
	Coyle	Zella Benson	858-0225

SCHOOL DISTRICT	AREA SUPERVISORS	CASEWORKERS	TELEPHONE NUMBER
Walled Lake	Lanard	James D'Amore	858-0223
		Julie Collom	858-0224
Waterford	Coyle	John Luke	858-0231
		Maureen Baker	858-0228
		Bo Boving	858-0213
West Bloomfield	Coyle	Bo Boving	858-0213
		Maureen Baker	858-0228
(County-Wide)	Callihan	Robert Byrne	858-0207

JUVENILE COURT YOUTH ASSISTANCE PERSONNEL:
YOUTH ASSISTANCE ADMINISTRATIVE AND
SUPERVISORY STAFF:

Edgar W. Flood	Director	858-0055
Sam Lambert	Assistant Director	858-0054
Marianne Margolin	Casework Specialist	858-0052
Elaine Seibert	Intake Worker	858-0099
Ralph Strahm	Volunteer Program Coordinator	858-0056
Dick Thibodeau	Community Organization Specialist	858-0053
Holmes Smith	Community Organization Specialist	858-0097
Rita Weiss	Child Management Specialist	858-0083
Bob Cross	Supervisor	858-0096
John Greenhill	Supervisor	858-0098
Charles Ludwig	Supervisor	858-0079

CASEWORK STAFF:

Avondale	Gary Rothenberg	858-3716
Berkley	Wally Cook	547-4010
Birmingham	Leo Szalma	644-1800
Bloomfield Hills	Gary Rothenberg	858-3716
Clarkston	Kevin McMacken	625-3330
Clawson	Bob Titus	435-4500
Farmington	Linda Valentino	476-3840
Ferndale	Barbara Kumar	547-6000
Hazel Park	Robert Spratt	546-7000
Holly	Kevin McMacken	634-3271
Huron Valley	David Slade	685-1340
Lake Orion	Greg Butler	693-6878
Lamphere & Madison Heights	Al Koch	588-1200
Novi	Wally Cook	349-8398
Oak Park	Frank Dennis	547-1331
Oxford	Greg Butler	628-1559

Pontiac	John Chatley Garry Pullins	335-9461
Rochester	Gasper Novara	651-2990
Royal Oak	Dick Stasys	546-1000
Southfield	David Ajamy	354-4864
South Lyons	Gary Gasowski	437-3747
Troy	Paul McFarland	689-3255
Walled Lake	Chris Janowicz	624-4287
Waterford	Gregory Prokopp	666-3930
West Bloomfield	Frank Dennis	682-1930

A P P E N D I X

II

Excerpts from the Oakland County Directory
of Human Resources - 1975

* * * * * *

Under a Federal Grant, Oakland County Youth Assistance prepared the Oakland County Directory of Human Resources - 1975. The Directory describes and lists the broad range of social and human services available to both individuals and families who live in Oakland County.

In Appendix II, we have re-printed a portion of the Directory including a listing of Emergency Telephone Numbers and the Service Index. Reference to the Service Index should give you an idea as to the areas of coverage in the Directory.

If you wish copies of the Directory, they can be purchased by mail, c/o Oakland County Youth Assistance, 1200 North Telegraph Road, Pontiac, Michigan 48053. Single copies are $3.50 each, including postage. Orders of 2 or more copies are $3.00 each, including postage. Checks should be made out to: Oakland County Youth Assistance Advisory Council, Inc. All proceeds from the sale of additional copies, over and above actual printing and mailing costs, will be used to benefit the work of the Oakland County Youth Assistance program.

EMERGENCY TELEPHONE NUMBERS

AMBULANCE:

Dispatched by your local police; see their number below

ANIMAL WELFARE:

For stray or wild animals call local police or Dog Pound.
Number in directory listed under your city.

Michigan Humane Society Animal Shelter, 1700 Brown Road, Pontiac;
Veterinary service; information on care of wild animals;
accepts unwanted animals 391-0800

Oakland County Animal Control, 1200 N. Telegraph, Pontiac
Pick up of stray animals 858-1022

CHILD ABUSE

Report it to: Oakland County Department of Social Services,
Protective Services, 8-5 p.m., M-F. 858-1590

To get help as a parent: Parents Anonymous 963-5668

CRISIS INTERVENTION

Common Ground, 1090 South Adams, Birmingham
Evening Hours 7-11 Sun-Th; 7 p.m. - 1 a.m., Fri-Sat. 645-9676

Family Focus - Crisis counseling, family problems
24-Hour phone 642-3083

Oakland County Child & Adolescent Clinic, family crisis around children,
9-8:30 p.m., M & W; 9-5:30 p.m., TU, TH, F. 740 Livernois, Ferndale 548-5666

Also 3377 Elizabeth Lake, Pontiac 682-3884

Hotline - Birmingham 24-Hour phone 644-3300

Project Headline - 24-Hour phone 526-5000

Suicide Prevention and Drug Information Center - 24-Hour phone 875-5466

DISASTER

Oakland County Dept. of Disaster Control and Civil Defense 333-7855
American Red Cross, Southeastern Michigan Chapter 833-4440
Michigan State Police: Bomb scare, civil emergency, highway service 332-9132

DRUG EMERGENCY (See Hospitals listed below)

FIRE (See below by community)

HOSPITALS (All provide 24-Hour emergency service)

Beaumont, William, 13 Mile and Woodward, Royal Oak 549-7000
Botsford General Hospital 476-7600
Crittenton, 1101 W. University Drive, Rochester 651-6000
Pontiac General, Seminole & West Huron, Pontiac 338-4711
Pontiac Osteopathic, 50 North Perry, Pontiac 337-7271 337-7271
Providence, 16001 West Nine Mile, Southfield 424-3000
St. Joseph Mercy, 900 Woodward, Pontiac 858-3000

MEDICAL ASSISTANCE

Oakland County Medical Society, 24-Hour phone for doctor service	646-5400

MENTAL HEALTH

Providence Hospital Mental Health Service, 16001 West Nine Mile, Southfield, 9-5 p.m., M-F	424-3000
17 years and over for mental health problems: West Oakland Community Mental Health Center, psychiatric help, 24-Hour phone	338-0357

POISON CONTROL

Poisondex-University of Michigan Poison Information Center, 24-Hr	764-5102
Children's Hospital (Detroit)	494-5711
St. Joseph Mercy Hospital, 600 Woodward, Pontiac	858-3000, Ext. 256

POLICE (See below by community)

RAPE CRISIS LINE

Rape Crisis Line (Detroit)	872-RAPE

RUNAWAY SHELTER

Sanctuary, 249 W. 10 Mile, Pleasant Ridge, temporary shelter, Ages 12-17	547-2260

SHELTER, FOOD, CLOTHING, BUS MONEY

Salvation Army- Pontiac Branch, 31 W. Lawrence, Pontiac (Serves North of 16 Mile)	334-2407
Salvation Army, Royal Oak Branch, 3015 N. Main Royal Oak, (Serves South of 16 Mile)	585-5600
FISH Programs of Oakland County	334-5555

SUICIDE PREVENTION

Suicide Prevention and Drug Information Center, 24-Hour phone counseling	875-5466

FOR INFORMATION ON WHERE TO GET HELP:

Community Information Service, 24-Hour phone, or Toll Free	833-3430 800-552-1183
Suicide Prevention & Drug Information Center, (Suicide, homicide, family problems, etc.)	875-5466

POLICE AND FIRE DEPARTMENTS

Michigan State Police Emergency High Service Bomb Scare Civil Emergency	332-9132
Oakland County Sheriff's Department	858-4911 or 335-9211

IF YOU DO NOT KNOW YOUR CITY OR TOWN, CALL THE OAKLAND COUNTY SHERIFF'S DEPARTMENT

	FIRE	POLICE
Addison Twp.	628-3121	628-3600
Avon Twp.	651-9611	*858-4911
Berkley	541-9000	541-9000
Bingham Farms	626-3221	626-5444
Bloomfield Hills	644-4646	644-4200
Brandon Twp.	672-3400	627-2200
Clarkston	625-1924	*858-4911
Commerce Twp.	363-3461	*858-4911
Farmington	474-1212	474-1212
Ferndale	541-3600	541-3650
Gingerville	693-8323	*858-4911
Hazel Park	542-6000	542-6161
Holly	634-4311	634-8221
Huntington Woods	541-1180	541-1180
Keego Harbor	682-6111	682-3030
Lake Orion Village	693-8323	693-8321
Lathrup Village	354-7808	557-3600
Lyon	437-0400	437-1773
Milford	684-2335	684-1515
Novi	349-2222	349-2222
Oakland County Sheriff		*858-4911 or 335-9211
Oakley Park	363-3461	*858-4911
Orchard Lake	682-6111	682-2400
Ortonville	627-3400	627-2200
Pleasant Ridge	541-3600	541-2900
Pontiac Twp.	373-6200	373-6200
Romeo	752-2244	752-3587
Royal Oak	546-3322	543-7500
Southfield	354-7808	354-4727
Springfield	634-8611	634-4495
Troy	689-4455	689-4455
Walled Lake	624-3111	624-3111
West Bloomfield Twp.	682-3473	682-1555
Wixom	624-3131	624-1111

	FIRE	POLICE
Auburn Hts.	373-6200	373-6200
Avondale	651-9611	*858-4911
Beverly Hills	646-6400	646-6400
Birmingham	644-1616	644-3400
Bloomfield Twp.	647-4200	644-5555
Brooklands	651-9611	*858-4911
Clawson	588-5000	588-5000
Drayton Plains	673-1271	674-0351
Farmington Hills	474-2335	474-2335
Franklin	626-3221	626-5444
Groveland	634-3991	625-2902
Highland	684-8885	*858-4911
Holly Twp.	634-4311	634-8221
Independence Twp.	625-1924	*858-4911
Lake Angelus Village	373-6200	*858-4911
Lake Orion	693-8323	*858-4911
Leonard	628-3121	628-3603
Madison Heights	588-3603	588-2100
Northville	349-1234	349-1234
Oak Park	911	911
Oakland Twp.	651-9611	*858-4911
Oakland University		337-3331
Orion Twp.	693-8323	*858-4911
Oxford Village	628-2525	628-2581
Oxford Twp.	628-2525	*858-4911
Pontiac	333-7001	338-1001
Rochester	651-9611	651-9621
Rose Twp.	634-4311	634-8221
Royal Oak Twp.	542-7484	542-7484
South Lyon	437-2055	437-1773
Sylvan Lake	682-6111	682-1440
Union Lake	682-3473	*858-4911
Waterford Twp.	673-6865	674-0351
White Lake Twp.	363-3551	363-8383
Wolverine Lake	363-3461	624-1335

*Oakland County Sheriff Department

OAKLAND COUNTY DIRECTORY OF HUMAN RESOURCES

SERVICE INDEX

ADDICTION PROBLEMS (see also Drugs, Alcoholism)
- Gamblers Anonymous 30
- Overeaters Anonymous 50

ADC (see Aid to Dependent Children)

ADOPTION
- Catholic Social Services 22
- Detroit Baptist Children's Home 26
- Family and Children's Services 28
- Jewish Family and Children's Services 33
- Lutheran Children's Friends Society 35
- Methodist Children's Home Society 36
- Oakland County Dept. of Social Services 46
- Oakland County Probate Court 48
- Protestant Youth Organization 54
- Spaulding for Children 60

ADULT EDUCATION (see also Appendix B on School Community Education Programs)
- Birmingham Community House 20
- Community Activities, Inc. 24
- Continuum Center, Oakland University 25
- Dana P. Whitmer Human Resources Center 26
- Oakland Community College 42
- Oakland Community College - Center for Substance Abuse 42
- Oakland County Cooperative Extension 45
- Oakland University 49
- YMCA of Metropolitan Detroit
  - Birmingham Branch 65
  - Farmington Branch 65
  - South Oakland Branch 65
  - West Oakland Branch 66
- YMCA of North Oakland County Pontiac-Rochester 66
- YWCA of Metropolitan Detroit Oakland Branch 66
- YWCA of Pontiac 66

AGED (see Senior Citizens Assistance)

AID TO DEPENDENT CHILDREN
- Oakland County Dept. of Social Services 46

ALCOHOLISM (see also Halfway Houses)
- Al-Anon Family Groups and Ala-Teens 18
- Alcohol and Drug Abuse Inc. of Royal Oak 18
- Alcohol and Drug Education 18
- Alcoholics Anonymous 18
- Catholic Social Services 22
- Family and Children's Services of Oakland 28
- Gateway Crisis Center 30
- National Council on Alcoholism, Greater Detroit Area 40
- Oakland County Alano Center 43
- Oakland County Alcohol Highway Safety Program 43
- Oakland County Health Department Office of Substance Abuse Services 47
- Pontiac Osteopathic Hospital Group Therapy Program 53
- Providence Hospital Alcohol Program 54
- Sacred Heart Rehabilitation Center, Inc. 56
- St. Joseph Mercy Hospital Out-patient Clinic 57
- Salvation Army Men's Social Service Center 58
- Sobriety House 59

ALTERNATIVE EDUCATION PROGRAMS (see also Appendix B on School Community Education Programs)
- Cool School 26
- Student Development Center 60

BIG BROTHERS - BIG SISTERS
- Big Brothers - Big Sisters, Inc. 20
- Oakland County Youth Assistance Program 48
- YWCA of Pontiac 66

BIRTH CONTROL (see Family Planning)

BUDGETING
- Catholic Social Services 22
- Credit Counseling Centers, Inc. 26
- Family and Children Services 28
- Family Focus of Youth Assistance 28
- Oakland County Cooperative Extension Service 45

CAMPS (Resident and Day, also for the Handicapped. See Appendix G on Children's Resident and Day Camps)

CHILD ABUSE (also see Child Protective Services)
- Parents Anonymous 51

CHILD DAY CARE (see Appendix A on Children's Nursery Schools and Day Care Centers)

CHILDREN INSTITUTIONAL FACILITIES
- Barat House, League of Catholic Women 20
- Boys Republic 22
- Boysville of Michigan 22
- Detroit Baptist Children's Home 26
- Don Bosco Hall 27
- Federation of Girls Homes 28
- Girlstown 30
- Lutheran Children's Friends Society 35
- Methodist Children's Home Society 36
- Oakland County Probate Court
  - Children's Village 48
  - Camp Oakland, Inc. 48
- Orchards Children's Services 50
- Saint Francis Home for Boys 56

Saint Peter's Home for Boys 57
St. Vincent and Sarah Fisher Home 57
Starr Commonwealth for Boys 60
Todd-Phillips Baptist Home for Boys 61
Vista Maria School for Girls 64
CHILD PROTECTIVE SERVICES
Oakland County Dept. of Social Services 46
Oakland County Probate Court - Juvenile Division 48
Parents Anonymous 51
CIVIL RIGHTS
American Civil Liberties Union 19
Michigan Dept. of Civil Rights 37
CLINICS (see Health and Medical Services, and Mental Health Services)
CLOTHING
Community Services of Seventh Day Adventist 25
Dun Scotus College 27
Fish Programs of Oakland County 29
Holly Community Service Center 31
Huron Valley Community Chest and United Fund 31
Independence Center 32
Light House 35
Neighborhood House 41
Pontiac Area Spanish Outreach 52
Salvation Army - Pontiac 57
Salvation Army - Royal Oak 58
Society of St. Vicent DePaul 59
Troy People Concerned 61
COMMUNITY DEVELOPMENT GROUPS
Area Service Association 19
Jewish Community Center of Metro Detroit, Oak Park Branch 33
Oakland County Coalition of National Welfare Rights Organizations 43
Pontiac Area Urban League 52
Pontiac - City Action Department 52
Pontiac Human Relations Commission 52
Pontiac Human Resources Department 53
Pontiac Neighborhood Service Center 53
COMMUNITY CENTERS
Birmingham Community House 20
Catholic Youth Organization 22
Community Activities, Inc. 24
Community Activities of Brandon 24
Dana P. Whitmer Human Resources Center 26
Hayes Jones Community Center 31
Holly Community Service Center 31
Independence Center 32
Jewish Community Center of Metropolitan Detroit, Oak Park Branch 33
Lake Orion - Oxford Public Services 34
Pontiac Neighborhood Service Center 53
COMMUNITY EDUCATION PROGRAMS (see Appendix B on School Community Education)
COMMUNITY MENTAL HEALTH (see Crisis Intervention; Drugs and Mental Health Services)
Oakland County Community Mental Health Services Board 44
CONSUMER PROBLEMS
Consumer Protection Division - County Prosecutor's Office 25
Dana P. Whitmer Human Resources Center 26
Oakland County Commission on Economic Opportunity 44
Oakland County Cooperative Extension Service 45
COORDINATING AND PLANNING AGENCIES
Area Service Association 19
Community Services Department of the Metropolitan Detroit AFL-CIO 25
Michigan Association for Emotionally Disturbed Children 37
Michigan Department of Mental Health 38
Oakland County Health Department - Office of Substance Abuse Services 47
Oakland County Dept. of Social Services 46
Oakland County Planning Commission 48
Pontiac Area Urban League 52
United Community Services - Oakland Planning Division 62
United Way of Pontiac - North Oakland 62
COUNSELING - ADULT, CHILDREN, FAMILY AND MARITAL (see also Crisis Intervention; and Mental Health Services)
Big Brothers - Big Sisters, Inc. 20
Catholic Social Services 22
Common Ground, Inc. 24
Community House 24
Continuum Center - Oakland University 25
Cool School 26
Fairlawn Center 28
Family and Children's Service 28
Family Focus of Youth Assistance 28
Farmington Area Advisory Council, Inc. 28
Gateway Crisis Center 30
Henry Ford Hospital - Troy Counseling and Psychotherapy Center 31
Homemaker Service of Metropolitan Detroit 31
Huron Valley Center for Help 32
International Institute 32
Jewish Family & Children's Services 33
Kingswood Hospital 34
Latin American Program of St. Vincent DePaul Church .34

Lutheran Children's Friends Society 35
Metropolitan Guidance Center 36
Oak Park Community Services Department 42
Oakland Community College -
Center for Substance Abuse 42
Oakland County Commission on Economic
Opportunity 44
Oakland County Youth Assistance Program 48
Oakland University Community Counseling
and Psychological Center 50
Operation Opportunity 50
Planned Parenthood League, Inc. 51
Pontiac Area Spanish Outreach 52
Pontiac General Hospital -
Community Mental Health Clinic 52
Pontiac Osteopathic Hospital -
Group Therapy 53
Pontiac Methadone Maintenance Treatment Program. ... 53
Project Change 54
Protestant Youth Organization, Inc. 54
Providence Hospital Community Mental
Health Clinic 54
Providence Hospital - Drug Abuse Treatment
and Prevention Program 54
Residents Awareness Program - RAP 55
Sacred Heart Rehabilitation Center, Inc. 56
St. Joseph Mercy Hospital - Drug
Abuse Treatment Program 56
Salvation Army Men's Social Service Center 58
Southeast Community Mental Health Program 45
Student Development Center 60
Threshold 60
Turning Point 61
University Hospital - University of
Michigan Medical Center 62
University of Detroit Psychological Clinic 63
U-Turn 64
Waterford Schools Drug Education Program 64
West Oakland Community Mental Health Center 65
County Clerk - Register of Deeds 44
COURTS (County)
Oakland County Circuit Court 43
Oakland County Friend of the Court 46
Oakland County Probate Court 48
CRIB DEATH (see Sudden Infant Death)
CRIME PREVENTION SERVICES (see also Delinquency
Prevention Services)
Oakland County Sheriff's Department -
Citizens Crime Prevention Services 49
Pontiac Police Community Relations Unit
and Juvenile Division 53
CRISIS INTERVENTION (see also Drugs; Mental
Health Services; and Suicide)
Catholic Social Services 22
Common Ground, Inc. 24
Community House 24
Community Information Services, United
Community Services of Metro Detroit 24
Family and Children's Services 28
Farmington Area Advisory Council, Inc. 28
Gateway Crisis Center 30
Hotline 32
Oak Park Community Services Department 42
Pontiac Neighborhood Service Center 53
Providence Hospital Community
Mental Health Clinic 54
Suicide Prevention and Drug Information
Center 60
Southeast Community Mental Health
Program 45
West Oakland Community Mental Health
Center 65
CUSTODY - CHILD
Friend of the Court 46
Oakland County Probate Court 48
DAY CARE CENTERS (see Appendix A on
Children's Nursery Schools and Day Care Centers)
DELINQUENCY PREVENTION SERVICES (also see
your local police dept. - some have youth officers)
Area Service Association 19
Big Brothers - Big Sisters 20
Bloomfield Twp. Police Community
Youth Relations Division 20
Catholic Social Services 22
Catholic Youth Organization 22
Cool School 26
Family and Children's Services 28
Oakland County Youth Assistance Program 48
Pontiac Police Community Relations Unit
and Juvenile Division 53
Protestant Youth Organization 54
Student Development Center 60
Boys Club of Auburn Heights 21
Boys Club of Pontiac 21
Boys Club of Royal Oak 21
Boys Scouts of America -
Clinton Valley Council 21
Detroit Area Council 21
Campfire Girls,
Detroit Area Council 22
Pontiac Area Council 22

Girl Scouts of America-
North Oakland County Council 30
South Oakland County Council 30
YMCA of Metro Detroit
Birmingham Branch 65
Farmington Branch 65
South Oakland Branch 65
West Oakland Branch 66
YMCA of North Oakland County
Pontiac-Rochester 66
YWCA of Metropolitan Detroit
Oakland Branch 66
YWCA of Pontiac 66
DISASTER (see emergency services)
DROP-IN CENTER (see Crisis Intervention, Mental Health Services, Drug, Alcohol Programs)
DRUGS - ANALYSIS, EDUCATION, PREVENTION AND TREATMENT CENTERS
Alcohol and Drug Abuse, Inc. of Royal Oak 18
Alcohol and Drug Education 18
Bloomfield Township Police - Community
Youth Relations Division 20
Common Ground, Inc. 24
Community Action Programs Against Drugs 24
Community House 24
Gateway Crisis Center 30
Huron Valley Center for Help 32
Oak Park Community Services Department 42
Oakland Commmunity College, Center for
Substance Abuse 42
Oakland County Commission on Economic
Opportunity 44
Oakland County Health Department - Office
of Substance Abuse Services 47
Pontiac Methadone Maintenance Treatment
Program 53
Project Change 54
Providence Hospital Community Mental
Health Clinic 54
Providence Hospital, Drug Abuse
Treatment and Prevention Program 54
Residents Awareness Program - RAP 55
St. Joseph Mercy Hospital - Drug Abuse
Treatment Program 56
St. Joseph Mercy Hospital -
Out-patient Clinic 57
Southfield Social Services 59
Suicide Prevention and Drug Information Center 60
Threshold 60
Turning Point 61
U-Turn 64
Waterford School Drug Education Program 64
EDUCATIONAL SERVICES (also see Appendix B on School Community Education Programs for Local School Districts)
Cool School 26
Northeast Oakland Vocational Education
Center 41
Northwest Oakland Vocational Education
Center 42
Oakland Community College 42
Oakland University 49
Southeast Oakland Vocational Education
Center 59
Southwest Oakland Vocational Education
Center 59
Student Development Center 60
EMERGENCY SERVICES (see Emergency Phone Number Page; also see Crisis Intervention; Shelter; and Suicide)
Addison Township Emergency Relief Fund 18
American Red Cross 19
Dun Scotus College 27
Fish Programs of Oakland County 29
Holly Community Service Center 31
Huron Valley Community Chest and United Fund 33
Independence Center 32
Light House 35
Michigan Veterans Trust Fund 40
Neighborhood House 41
Novi Community Council 42
Oakland County Department of Disaster Control
and Civil Defense 45
Poison Control Center, Children's Hospital
of Michigan 51
Pontiac Area Spanish Outreach 52
Salvation Army - Pontiac 57
Salvation Army Men 's Social Service Center 58
Salvation Army - Royal Oak 58
Society of Saint Vincent DePaul 59
Traveler's Aid Society 61
EMOTIONAL DISTURBANCES (see Crisis Intervention and Mental Health Services)
EMPLOYMENT AND VOCATIONAL SERVICES (see also Appendix F on Youth Employment Referral Services in Oakland County)
Dana P. Whitmer Human Resources Center 26
Jewish Vocational Service and Community
Workshop 33
League for the Handicapped - Goodwill
Industries 35
Metropolitan Guidance Center 36
Michigan Department of Education -
Vocational Rehabilitation Services 38
Michigan Employment Security Commission 38

New Horizons of Oakland County 41
Northeast Oakland Vocational Education Center 41
Northwest Oakland Vocational Education Center 42
Oakland County District Nurses - Private Duty Registry Committee 46
Oakland County Manpower Department 47
Pontiac Area Urban League 52
Southeast Oakland Vocational Education Center 59
Southfield Social Services 59
Southwest Oakland Vocational Education Center 59

FAMILY COUNSELING (see Counseling - Adult, Children Family and Marital)

FAMILY PLANNING
Planned Parenthood League, Inc. 51
Oakland County Health Department 47

FINANCIAL AND MATERIAL ASSISTANCE (see also Appendix H on Senior Citizens Nutrition and Social Centers)
Addison Township Emergency Relief Fund 18
American Red Cross 19
Dun Scotus College 27
Fish Programs of Oakland County 29
Furniture Resource Center 29
Holly Community Service Center 31
Huron Valley Community Chest and United Fund 32
Independence Center 32
Light House 35
Michigan Veterans Trust Fund 40
Neighborhood House 41
Novi Community Council 42
Oakland County Dept. of Social Services 46
Pontiac Area Spanish Outreach 52
Salvation Army - Pontiac 57
Salvation Army, Men's Social Service Center 58
Salvation Army - Royal Oak 58
Society of St. Vincent DePaul 59
Troy People Concerned 61

FIRST AID (see also Health and Medical Services)
American Red Cross 19

FOSTER CARE
Catholic Social Services 22
Detroit Baptist Children's Home 26
Jewish Family and Children Services 33
Methodist Children's Home Society 36
Oakland County Dept. of Social Services 46
Oakland County Probate Court - Adoption and Foster Care 48

GAMBLING
Gamblers Anonymous 30

HALFWAY HOUSES
Alcohol and Drug Abuse, Inc. of Royal Oak 18
Heartline, Inc. 31
Residents' Awareness Program - RAP 55
Salvation Army Men's Social Service Center 58
Sobriety House 59
The Sanctuary 60

HANDICAPPED (see Health and Medical Agencies Specialized)

HEADSTART PROGRAMS (see Poverty Programs)

HEALTH AND MEDICAL SERVICES - GENERAL AND OUTPATIENT CLINICS (see also Mental Health Mental Retardation)
Appraisal Center for Multiply Handicapped Children 19
Botsford General Hospital 21
Children's Hospital of Michigan 23
Common Ground, Inc. 24
Crittenton Hospital 4
Lakeside Community Health Center 34
Metropolitan Society for Crippled Children and Adults 36
Michigan Department of Public Health - Div. of Services to Crippled Children 38
Neuro-Muscular Institute 41
Oakland County Health Dept. (see also Appendix C on Oakland County Health Dept., Immunization Clinics, Child Health Conferences and Project Health Program) 47
Oakland County Tubercolosis Assoc. 49
Planned Parenthood League, Inc. 51
Pontiac General Hospital 4
Pontiac Osteopathic Hospital 4
Providence Hospital 4
St. Joseph Mercy Hospital Out-Patient Clinic 57
Shiffman Clinic of Sinai Hospital 58
William Beaumont Hospital 4

HEALTH AND MEDICAL AGENCIES (specialized)
ARTHRITIS FOUNDATION 19
(BIRTH DEFECTS)
Oakland County March of Dimes 48
University Hospital - U of M Medical Center 62
(BLIND AND VISUALLY HANDICAPPED)
Blind Recreational Society 20
Leader Dogs for the Blind 35
Metropolitan Society for the Blind 37
Michigan School for the Blind 39
Oakland County Dept. of Social Services 46

Oakland County Sub Regional Library for the Blind and Visually Handicaoped 49
Penrickton Center 51
Readings for the Blind 55
Recording for the Blind 55
Rehabilitation Institute, Inc. 55
(BLOOD PROGRAMS)
American Red Cross 19
Childrens Leukemia Foundation of Michigan 23
Hemophilia of Michigan 31
(CANCER)
American Cancer Society 18
Michigan Cancer Foundation 37
UNITED CEREBRAL PALSY ASSOCIATION OF DETROIT 61
(DEAF AND HARD OF HEARING)
Detroit Hearing and Speech Center 27
Kenny-Michigan Rehabilitation Foundation 33
Lutheran School for the Deaf 35
Michigan School for the Deaf 39
Oakland Schools - Speech and Hearing Clinic (Appendix B) 72
University of Michigan Speech and Hearing Clinic 63
Wayne State University Speech and Hearing Clinic 64
(DENTAL SERVICES)
Dana P. Whitmer Human Resources Center 26
Michigan Department of Public Health - Division of Services to Crippled Children 38
Oakland County Health Department 47
Pontiac Area Spanish Outreach 52
Shiffman Clinic of Sinai Hospital 58
Tri-County Dental Health Council 61
University of Detroit School of Dentistry 63
St. Joseph Mercy Hospital Out-Patient Clinic 57
MICHIGAN DIABETES ASSOCIATION 38
(EPILEPSY)
Epilepsy Center of Michigan 27
Michigan Dept. of Mental Health 38
MICHIGAN HEART ASSOCIATION 39
KIDNEY FOUNDATION OF MICHIGAN 33
NATIONAL MULTIPLE SCLEROSIS SOCIETY 41
MUSCULAR DISTROPHY ASSOCIATION OF AMERICA 40
MYASTHENIA GRAVIS ASSOCIATION 40
(ORTHOPEDICALLY HANDICAPPED)
Easter Seal Society for Crippled Children and Adults 27
League for the Handicapped - Goodwill Industries 35
Metropolitan Society for Crippled Children and Adults 36
Michigan Dept. of Education - Vocational Rehabilitation Services 38
Michigan Dept. of Public Health - Division of Services to Crippled Children 38
Michigan League for Crippled Children, Inc. 39
Neuro-Muscular Institute 41
Oakland County March of Dimes 48
Oakland County Sub Regional Library for the Blind and Visually Handicapped 49
Rehabilitation Institute, Inc. 55
Kenny-Michigan Rehabilitation Foundation 33
SICKLE CELL ANEMIA
Sickle Cell Anemia Detection and Information Center 58
Project Health Program (Appendix C) 76
SPEECH IMPEDIMENTS (see Speech Therapy)
NATIONAL FOUNDATION FOR SUDDEN INFANT DEATH 40
(TUBERCULOSIS)
Oakland County Health Dept. 47
Oakland County Hospital 47
Oakland County Tuberculosis Association 49
(VENEREAL DISEASE)
Oakland County Health Dept. 47
HOMELESS (see Housing Shelter)
HOMEMAKER SERVICES
Dana P. Whitmer Human Resources Center 26
Homemakers Service of Metropolitan Detroit 31
Oakland County Cooperative Extension Service 45
HOMES FOR THE AGED (See Appendix I on Nursing Homes and Homes for the Aged, see also Senior Citizen Assistance)
HOTLINES (see Crisis Intervention)
HOUSING (see also Shelter)
Pontiac Housing Commission 52
Royal Oak Twp. Public Housing Commission 56
(Also consult UCS Directory on Aging for senior citizen housing)

IMMIGRATION SERVICES
International Institute 31
United States Immigration and Naturalization Service 62
IMMUNIZATION CLINICS (see also Appendix C on Oakland County Health Dept., Immunization Clinics, Child Health Conferences and Project Health Programs)
Oakland County Health Department 47
INFORMATION AND REFERRAL SERVICE (see also Appendix K on Public Libraries in Oakland County)
Catholic Social Services 22
Common Ground, inc. 24
Community Action Program Against Drugs 24
Community House 24
Community Information Service - UCS of Metropolitan Detroit 24
Community Services Department of Metro Detroit AFL-CIO 25
Family Focus of Youth Assistance 25
Family and Children Services 28
Fish Programs of Oakland County 29
Gateway Crisis Center 30
Hot Line 32
Independence Center 32
International Institute 32
Jewish Family and Children Services 33
Neighborhood House 41
Oak Park Community Services Department 42
Oakland County Commission on Economic Opportunity 44
Oakland County Health Department 47
Oakland County Dept. of Social Services 46
Operation Opportunity 50
Pontiac Human Relations Commission 52
Pontiac Human Resources Department 53
Pontiac Neighborhood Service Center 53
Project Change 54
Residents' Awareness Program - RAP 55
Southfield Social Services 59
Threshold 60
Turning Point 61
Troy People Concerned 61
U.S. Dept. of Health, Education and Welfare - Social Security Administration 62
United Way of Pontiac - North Oakland 62
INTERRACIAL RELATIONS (see Race Relations)
JUVENILE DELINQUENCY (see Delinquency Prevention Services)
LANDLORD RIGHTS (see Legal Services)
LEARNING DISABILITIES (see also Psychological Services and Testing)
Chamberlain House Parents Foundation 23
Christ Child School 23
Detroit Baptist Children's Home 26
Michigan Association for Children with Learning Disabilities 37
William Beaumont Hospital - Neuro - Education Center 65
LEGAL SERVICES
American Civil Liberties Union of Michigan 19
Common Ground, Inc. 24
Gateway Crisis Center 30
Lawyer Referral Service, Oakland County Bar Association 34
Legal Aid and Defender Assoc. 35
Oakland County Friend of the Court 46
Oakland County Legal Aid Society 47
Pontiac Area Spanish Outreach 52
Project Change 54
University of Detroit - Urban Law Clinic 63
MANPOWER DEVELOPMENT (see Employment and Vocational Services)
MARRIAGE COUNSELING (see Counseling - Adult, Children, Family and Marital)
MEDICAL ASSISTANCE - FINANCIAL (see Health and Medical Services; also, Financial and Material Assistance)
MEDICAL CLINICS (see Health and Medical Services)
MEDICAL EQUIPMENT
American Cancer Society 18
Arthritis Foundation 19
Birmingham Community House 20
Children's Leukemia Foundation of Michigan 23
Easter Seal Society for Crippled Children and Adults 36
Michigan Cancer Foundation 37
MENTAL HEALTH SERVICES
Catholic Social Services 22
Child and Adolescent Clinic 45
Clinton Valley Center 23
Fairlawn Center In-Patient Services and Pre and After-Care Clinic 28
Family and Children Services 28
Hawthorn Center and Out-Patient Clinic 30
Kingswood Hospital 34
Lafayette Clinic 34

Mercywood Hospital 36
Metropolitan Guidance Center 36
Michigan Association for Emotionally Disturbed Children 37
Michigan Dept. of Mental Health 38
Michigan Society for Mental Health 39
Oakland County Community Mental Health Services Board 44
Oakland Schools Psychological Services Clinic (Appendix B) 72
Orchards Children's Services 50
Pontiac General Hospital - Community Mental Health Clinic 52
Pontiac Osteopathic Hospital - Group Therapy 53
Providence Hospital Community Mental Health Clinic 54
St. Joseph Mercy Hospital - Drug Abuse Treatment Program 56
Southeast Oakland Community Mental Health Center 45
Threshold 60
University Hospital - University of Michigan Medical Center 62
West Oakland Community Mental Health Center 65
Ypsilanti State Hospital 66
MENTAL RETARDATION
Appraisal Center for Multiply Handicapped Children 19
Chamberlain House Parents Foundation 23
Christ Child School 23
Detroit Association for Retarded Citizens 26
Evangelical Home for Children and Aged 27
FAR (Friends and Relatives) Conservatory of Performing Arts for Mentally Retarded Citizens 29
Haven Farm, Parents Foundation for the Mentally Retarded 30
Jay Shop, Inc. 32
League for the Handicapped - Goodwill Industries 35
Michigan Department of Education - Vocational Rehabilitation Services 38
Michigan Department of Mental Health 38
Oakland County Association for Retarded Citizens 43
Oakland County Community Mental Health Services Board - Mental Retardation Center 45
Our Lady of Providence School 50
Saint Louis School 57
Saint Mary's Residence for Girls 57
METHADONE PROGRAMS (see Drugs)MISSING PERSONS
MISSING PERSONS (also contact local police department)
Salvation Army - Royal Oak 58
NARCOTICS (see Drugs)
NEIGHBORHOOD CENTERS (see Community Centers)
NURSERIES (see Appendix A on Children's Nursery Schools and Day Care Centers) 67
NURSING HOMES (see Appendix I on Nursing Homes and Homes for the Aged) 86
NURSING SERVICES
American Red Cross 19
Michigan Department of Public Health - Division of services to Crippled Children 38
Oakland County District Nurses - Private Duty Registry Committee 46
Oakland County Health Department 47
Pontiac Visiting Nurse Association 54
Visiting Nurse Association of Detroit 64
NUTRITION (see also Appendix H on Senior Citizens Nutrition and Social Centers) 85
Oakland County Health Dept. 47
Oakland County Cooperative Extension Service 45
ORTHOPEDICALLY HANDICAPPED (see Health and Medical Agencies - Specialized)
PARENT EDUCATION (see also Appendix B on School Community Education Programs) 70
Catholic Social Services 22
Family and Children Services 28
Family Focus of Youth Assistance 28
Metropolitan Guidance Center 36
Metropolitan Society for Crippled Children and Adults 36
Michigan Association for Emotionally Disturbed Children 37
Oak Park Community Services Dept. 42
Oakland County Youth Assistance 48
Oakland Community College Center for Substance Abuse 42
Parents Without Partners 51
Residents Awareness Program - RAP 55
Turning Point 61
PHYSICAL THERAPY (see also Health and Medical Agencies - Specialized)
Arthritis Foundation 19
Kenny-Michigan Rehabilitation Foundation 33
Michigan Department of Education - Vocational Rehabilitation Services 38

Easter Seal Society for Crippled Children and Adults 27
St. Joseph Mercy Hospital Out-Patient Clinic 57
PLANNED PARENTHOOD (see Family Planning)
POISON CONTROL AND INFORMATION
Poison Control Center, Children's Hospital of Michigan 51
University Hospital - University of Michigan Medical Center 62
POVERTY PROGRAMS
Oakland County Commission on Economic Opportunity 44
PROBATION AND PAROLE SERVICES (also consult telephone directory for local District Court offices)
Michigan Department of Corrections 37
Oakland County Circuit Court 43
Oakland County Probate Court 48
PROBLEM PREGNANCY
Birthright, Inc. 20
Catholic Social Services 22
Common Ground 24
Community House 24
Detroit Baptist Children's Home 26
Family and Children's Services 28
Jewish Family and Children's Services 33
Marrillac Hall 35
Lutheran Children's Friend Society 35
Methodist Children's Home Society 36
Oakland County Health Department 47
Planned Parenthood League, Inc. 51
PROTECTIVE SERVICES (see Child Protective Services, Courts, Delinquency Prevention Services)
PSYCHIATRIC SERVICES (see Mental Health)
PSYCHOLOGICAL SERVICES AND TESTING (see also Mental Health Services. Also contact Special Education Depts. of local school districts)
Appraisal Center for Multiply Handicapped Children 19
Continuum Center, Oakland University 25
Jay Shop, Inc. 32
Metropolitan Guidance Center 36
Oakland County Probate Court 48
Oakland Schools - Psychological Services Clinic (Appendix B) 72
PUBLIC HEALTH
Oakland County Health Department 47
RACE RELATIONS
American Civil Liberties Union of Michigan 19
Michigan Department of Civil Rights 37
Pontiac Area Urban League 52
RAP LINES (see Crisis Intervention)
RECREATION SOCIAL PROGRAMS (see also Appendix D on County-Metro-Municipal Parks and Recreation Facilities and Programs) 75
Birmingham Community House 20
Blind Recreational Society 20
Boys Club of Auburn Heights 21
Boys Club of Pontiac 21
Boys Club of Royal Oak 21
Boy Scouts of America 21
Clinton Valley Council
Detroit Area Council
Campfire Girls 22
Detroit Area Council
Pontiac Area Council
Catholic Youth Organization of the Archdiocese of Detroit 22
Community Activities, Inc. 24
Community Activities of Brandon 24
Dana P. Whitmer Human Resources Center 26
Girl Scouts of America 30
Northern Oakland County Council
Southern Oakland County Girl Scouts, Inc.
Hayes Jones Community Center 31
Jewish Community Center of Metropolitan Detroit, Oak Park Branch 33
Metropolitan Detroit Council, American Youth Hostels, Inc. 36
Metropolitan Society for Crippled Children and Adults 36
Oakland County 4-H Program 45
Parents Without Partners 51
Rochester-Avon Recreation Authority 56
Salvation Army Men's Social Service Center 58
Southfield Senior Citizens 59
YMCA of Metropolitan Detroit
Birmingham Branch 65
Farmington Branch 65
South Oakland Branch 65
West Oakland Branch 66
YMCA of North Oakland County Pontiac-Rochester 66
YWCA of Metropolitan Detroit Oakland Branch 66
YWCA of Pontiac 66
REHABILITATION SERVICES
American Cancer Society 18
Arthritis Foundation 19
Kenny Michigan Rehabilitation Foundation 33
Michigan Cancer Foundation 37

Michigan Department of Education - Vocational Rehabilitation Services 38
Pontiac Visiting Nurse Association 54
Rehabilitation Institute, Inc. 55
Salvation Army Men's Social Service Center 58
Wayne State University Speech and Hearing Clinic 64
Visiting Nurse Association of Detroit 64
Oakland Schools Speech and Hearing Clinic (Appendix B) 72

REMEDIAL READING (also consult your local School District)
Oakland Schools Reading Clinic (Appendix B) 72

RESIDENTIAL TREATMENT CENTERS (see Child Institutional Facilities, Drug Programs, Alcoholism, Mental Health Services)

RETARDATION (see Mental Retardation)

RUNAWAYS
Oakland County Probate Court - Juvenile Services 48
Sanctuary House 58

SCHOOLS (see also Educational Services; Appendix B on School Community Education Programs)
Cool School 26
Oakland Community College 42
Oakland University 49
Student Development Center 60

SELF-HELP GROUPS
Alcoholics Anonymous 18
Al-Anon Family Groups and Al-Teens 18
Gamblers Anonymous Unity 30
Overeaters Anonymous 50
Parents Anonymous 51
Parents Without Partners 51
Recovery, Inc. 55

SENIOR CITIZENS ASSISTANCE (see also Appendices on County-Metro-Municipal Parks and Recreation Facilities (p. 75); Senior Citizens Nutrition and Social Centers (p.85); and Nursing Homes and Homes for the Aged (p. 86). Also, consult UCS Directory on the Aging)
Birmingham Community House 20
Catholic Social Services 22
Citizens for Better Care 86
Community Information Service, United Community Services of Metropolitan Detroit 24
Evangelical Home for Children and Aged 27
Family and Children's Services 28
Fish Programs of Oakland County 29
Foster Grandparent Program 29
Homemaker Services of Metro Detroit 31
Neighborhood House 41
Oakland County Commission on Economic Opportunity 44
Oakland County Dept. of Social Services 46
Oakland County Health Dept. 47
Pontiac Visiting Nurse Association 54
Rochester-Avon Recreation Authority 56
Salvation Army - Pontiac 57
Salvation Army - Royal Oak 58
Southfield Senior Citizens 59
Southfield Social Services 59
United States Department of Health, Education and Welfare - Social Security Administration 62
Visiting Nurse Association of Detroit 64
YWCA of Metropolitan Detroit South Oakland Branch 66
YWCA of Pontiac 66

SERVICE CLUBS (see Appendix J on Civic Associations and Service Clubs in Oakland County)

SEX EDUCATION (see Family Planning)

SHELTER-TEMPORARY (see also Housing)
Heartline, Inc. 31
Salvation Army Men's Social Service Center 58
Salvation Army - Pontiac 57
Salvation Army - Royal Oak 58
Sanctuary House 58

SHELTERED WORKSHOPS
Jay Shop, Inc. 32
New Horizons of Oakland County 41
Salvation Army Men's Social Service Center 58

SINGLE PARENTS
Parents Without Partners 51

SOCIAL SECURITY
United States Department of Health, Education and Welfare - Social SEcurity Administration 62

SPEECH THERAPY (also contact local school district offices)
Christ Child School 23
Detroit Hearing and Speech Center 27
Kenny Michigan Rehabilitation Foundation 33
Lutheran School for the Deaf 35
Michigan Department of Education Vocational Rehabilitation Services 38
Oakland Schools Speech and Hearing Clinic (Appendix B) 72
University of Michigan Speech Clinic 63
Wayne State University - Communications Disorders and Sciences 64
Wayne State University - Speech and Hearing Clinic 64

SUBSTANCE ABUSE (see also Alcoholism; and Drugs)
Oakland County Health Dept. - Office of Substance Abuse Services 47

SUDDEN INFANT DEATH
National Foundation for Sudden Infant Death, Inc. 40

SUICIDE (see also crisis Intervention)
Suicide Prevention and Drug Information Center 60
TENANT-LANDLORD RIGHTS (see Legal Services)
TRANSIENTS
Travelers Aid Society 61
Salvation Army - Pontiac 57
Salvation Army - Royal Oak 58
TRANSPORTATION SERVICES
American Cancer Society 18
American Red Cross 19
Fish Programs of Oakland County 29
Independence Center 32
Light House 35
Michigan Cancer Foundation 37
Oakland County Dept. of Social Services 46
Rochester-Avon Recreation Authority 56
Salvation Army - Pontiac 57
Salvation Army - Royal Oak 58
Travelers Aid Society 61
Troy People Concerned 61
TUTORIAL SERVICES (check with your local school district)
UNEMPLOYMENT (see Employment and Vocational Services)
UNMARRIED PARENTS (see Problem Pregnancy)
VASECTOMY
Planned Parenthood League, Inc. 51
VENEREAL DISEASE
Oakland County Health Department 47
VETERANS SERVICES
American Red Cross 19
Michigan Veterans Facility 39
Michigan Veterans Trust Fund 40
Oakland County Dept. of Veteran's Affairs 46
VISITING NURSES (see Nursing Services)
VOCATIONAL REHABILITATION
Dana P. Whitmer Human Resources Center 26
Kenny Michigan Rehabilitation Foundation 23
Michigan Department of Education - Vocational Rehabilitation Service 38
Pontiac Methadone Maintenance Treatment Program 53
VOCATIONAL SERVICES (see Employment and Vocational Services)
VOLUNTEER PROGRAMS (Besides those listed below, most social service agencies use volunteers)
American Red Cross 19
Big Brothers - Big Sisters, Inc. 20
Fish Programs of Oakland County 29
Foster Grandparent Program 29
Friendly Visitory Program - Volunteer Action Center 29
Michigan Cancer Foundation 37
Michigan Heart Association 39
Oakland County Dept. of Social Services Volunteer Coordinator 46
Oakland County Probate Court - Volunteer Case Aid Program 48
Oakland County Volunteer Bureau 49
Oakland County Youth Assistance 48
Recordings for the Blind 55
Southfield Social Services 59
Troy People Concerned 61
Volunteer Action Center, United Community Services of Metro Detroit 64
WEIGHT PROBLEMS
Overeaters Anonymous 50
WELFARE
Oakland County Dept. of Social Services 46
WELFARE RIGHTS
Oakland County Coalition of Welfare Rights Organizations 43
YOUTH SERVICES AND PROGRAMS (see Recreation and Social Programs, also see Appendix D on County State-Metro and Municipal Parks and Recreation Facilities)
Big Brothers - Big Sisters, Inc. 19
B'Nai B'Rith Youth Organization 21
Boys Club of Auburn Heights 21
Boys Club of Pontiac 21
Boys Club of Royal Oak 21
Boys Scouts of America -
Clinton Valley Council 21
Detroit Area Council 21
Campfire Girls
Detroit Area Council 22
Pontiac Area Council 22
Catholic Youth Organization of the Archdiocese of Detroit 22
Community Activities, Inc. 24
Community Activities of Brandon 24
Dana P. Whitmer Human Resources Center 26
Girl Scouts of America
Northern Oakland County Council 30
Southern Oakland County Girl Scouts, Inc. 30
Hayes Jones Community Center 31
Oakland County Youth Assistance Program 48
Rochester-Avon Recreation Authority 56
Salvation Army - Pontiac 57
Salvation Army - Royal Oak 58
Southfield Social Services 59
YMCA of Metropolitan Detroit
Birmingham Branch 65
Farmington Branch 65
South Oakland Branch 65
West Oakland Branch 66
YMCA of North Oakland County 66
YWCA of Metropolitan Detroit
Oakland Branch 66
YWCA of Pontiac 66

A P P E N D I X

III

A Teaching Unit, Prepared by the Oakland County Prosecutor's Office on Juvenile Rights

* * * * *

The Oakland County Prosecutor's Office, through the hard work of Assistant Prosecutor Arnold Weiner assigned to the Juvenile Court Division, has prepared a program primarily designed to appeal to the elementary and junior high school students. It deals with many of the legal questions that are often raised by juveniles.

Oakland County Prosecutor's Office offers to all interested schools the services of Assistant Prosecutor Arnold Weiner in presenting this Teaching Unit. He may be contacted by calling or writing the Oakland County Prosecutor's Office.

Through such a presentation the Prosecutor's Office hopes to provide for the elementary and junior high school students a fresh outlook on the law from the side of law enforcement. The following pages of the Appendix can be presented to the classes by way of an overhead projector with additional commentary on the part of Mr. Weiner.

JUVENILE LAW PRE-TEST
(write yes or no)

NAME _____

HOUR _____

_____1. Can the fact of your arrest as a teenager later prevent you from holding public office?

_____2. Can you wear your hair as you please in school?

_____3. Is hitch-hiking a crime in Michigan?

_____4. Do you have a legal right to an allowance for helping at home?

_____5. Is it a crime to write on school lockers and walls?

_____6. Is it a crime to plan a robbery if you never carry it out?

_____7. Can you be arrested for carrying a razor blade in your pocket?

_____8. Is it legal to "go limp" or lie down when arrested?

_____9. Can you punch someone for making dirty remarks about your friends?

_____10. Can you be arrested for refusing to help a policemen?

_____11. Are your parents responsible for any damages you cause?

_____12. Is crashing a party legal if you do not create a disturbance?

_____13. If you stand on your own property and throw stones across the property of a neighbor, are you committing the crime of trespassing?

_____14. Can you alone arrest a person committing a crime?

_____15. Do the earnings of a juvenile living with his parents belong to the student?

_____16. Does the teacher have the legal right to "lay a hand" on a student?

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_____18. Can a 14 year old legally stay out until 1:00 A.M. on Saturday night?

_____19. Can skipping school effect you after you get out of school?

_____20. Can a juvenile go to the store and buy cigarettes for his parents anytime?

_____21. Can a 13 year old receive a working permit for a job at a grocery store?

_____22. Can a 14 year old under special conditions receive a driver's license?

_____23. Do juveniles have the same rights as adults in courts of law?

_____24. If you take a bikini from a store have you committed the crime of Larceny?

_____25. Can a 14 year old ride his mini-bike in the street?

JUVENILE LAW

Juvenile - Under Michigan law, any boy or girl under 17 years old.

Delinquent - Any person through his own actions or the actions of someone else, who may cause harm to someone or be involved in a violation of the law.

Crime - An act forbidden by law and punishable by jail or fine.

" A JUVENILE IS NOT A DELINQUENT -

BUT SOME JUVENILES BECOME DELINQUENTS. "

I. CAN THE FACT OF YOUR ARREST AS A TEENAGER LATER PREVENT YOU FROM HOLDING PUBLIC OFFICE ?

YES

Each time a person breaks the law and is found guilty, his offense goes on the record and stays there, unless removed by court action.

A JUVENILE COURT RECORD CAN MAKE

1. It hard to get a good job
2. It difficult to get a drivers license
3. You also lose your right to vote
4. It hard to get into a service academy
5. It difficult to hold public office or practice many licensed professions - Doctors, Attorneys, Teachers, etc...

2. CAN YOU WEAR YOUR HAIR AS YOU WANT IN SCHOOL ?

YES

Schools can make DRESS CODES. THEY MUST BE BASED ON EDUCATIONAL OR SAFETY REASONS.

Can your school tell you what length your clothes can be ? WHY ?

Can you be suspended if you break the DRESS CODE. ?

WHAT IS THE POLICY IN YOUR SCHOOL ?

3. IS HITCH HIKING A CRIME ?

YES

" Standing in the roadway for the purpose of asking for a ride" is Illegal in Michigan.

Hitch Hiking too often results in crime, either by the driver or by the hitch hiker.

Can you explain how ?

4. DO YOU HAVE A LEGAL RIGHT TO AN ALLOWANCE FOR HELPING AT HOME ?

NO

Parents are legally entitled to the services of their children as long as they support the children . And parents have control over the earnings of their children as long as they support the children.

AN ALLOWANCE IS A PRIVILEGE, NOT A RIGHT !

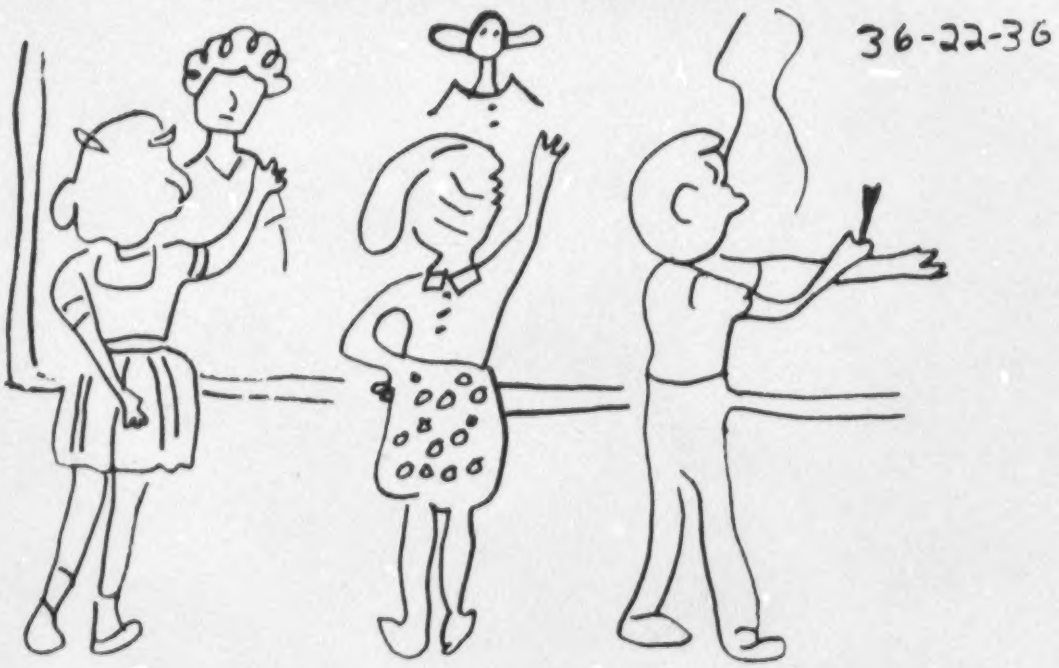
5. IS IT A CRIME TO WRITE ON SCHOOL LOCKERS OR WALLS ?

YES

This is called MALICIOUS DESTRUCTION OF PROPERTY !

which includes damaging books in the library, defacing school property , damaging road signs, and marking up restrooms , etc....

" SAVE YOUR ART FOR THE ART CLASS "



6. IS IT A CRIME TO PLAN A ROBBERY EVEN IF YOU NEVER CARRY IT OUT ?

YES

Conspiracy : When two or more people agree to commit an unlawful act, or a lawful act in a unlawful manner.

EXAMPLE **

If mike and frank plan to rob a gas station and go and buy a gun, knief, or even a bat, they have committed the crime of conspiracy to committ robbery, even though they did not go to the station and attempt the robbery.

7. Can YOU BE ARRESTED FOR CARRYING A RAZOR BLADE IN YOUR POCKET ?

YES

There is a crime called., Carrying a concealed weapon and Assault with a Dangerous Weapon.

WHAT IS A DANGEROUS WEAPON ?

A dangerous weapon is one which is likely to produce death or serious bodily injury.

DANGEROUS WEAPONS COULD INCLUDE - gun , knief , bat , pop bottle , lead pipes , razors , shoes , hat pins , pens , etc..

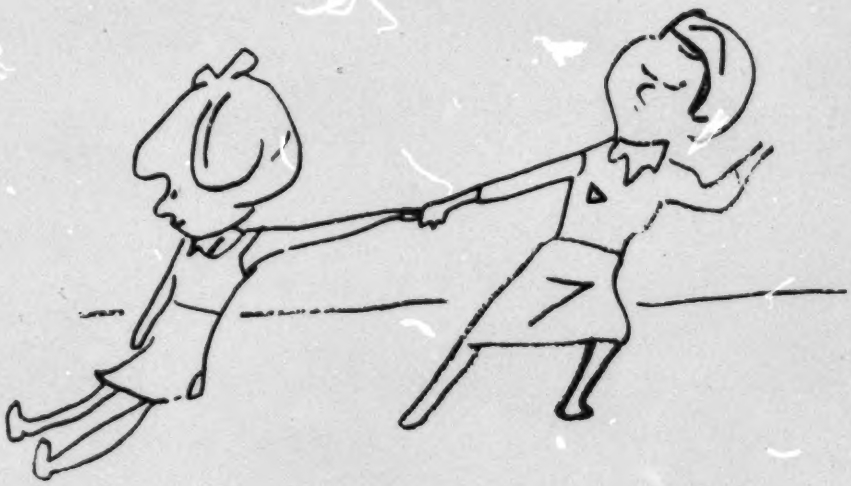
Almost anything can be a dangerous weapon depending on how you use it.

8. IS IT LEGAL TO " GO LIMP " OR LIE DOWN WHEN ARRESTED

NO

PASSIVE RESISTANCE - going limp, sitting down, refusing to go with the police, which is often used at demostrations, is resistance to arrest, and obstruction to an officer in the performance of his duties.

It is a punishable offense (crime)



9. CAN YOU PUNCH SOMEONE FOR MAKING DIRTY REMARKS ABOUT YOUR FRIENDS ?

NO

Let's say someone insults your girl by saying she is ugly, can you hit him ?

NOT LEGALLY - You would be charged with Assault and Battery.

IN LEGAL TALK - MERE WORDS ARE NEVER ADEQUATE PROVOCATION TO ASSAULT AND BATTER.

It takes greater courage to restrain yourself and walk away.

10. CAN YOU BE ARRESTED FOR REFUSING TO HELP A POLICEMAN ?

NO

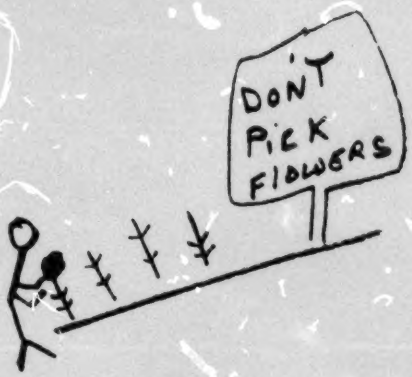
IF AN OFFICER IS CHASING A ROBBER WITH A GUN AND HE ASK YOU TO HELP CATCH THE THIEF, YOU CAN REFUSE, BECAUSE IT WOULD PUT YOU IN PHYSICAL DANGER.

IF you see a person entering a window in a house or going into your neighbors car, you don't have to try and stop him - but, GO AND CALL THE POLICE.

II. ARE YOUR PARENTS RESPONSIBLE FOR THE DAMAGES YOU CAUSE ?

YES

VANDALISM - to school or other public property



- besides being kicked out of school, or sent to the juvenile village, your parents are required by law to pay for any damage.

If you put out a friends eye with a BB gun, it's your parents who must pay the medical bills.

Several cities around here have a law that says :

If a child under 17, commits two or more crimes, or is convicted of four traffic violations, in one year, his parents can be charged with PARENTAL NEGLECT : $ 500 and/ or 90 days in jail.

IS THIS FAIR ?

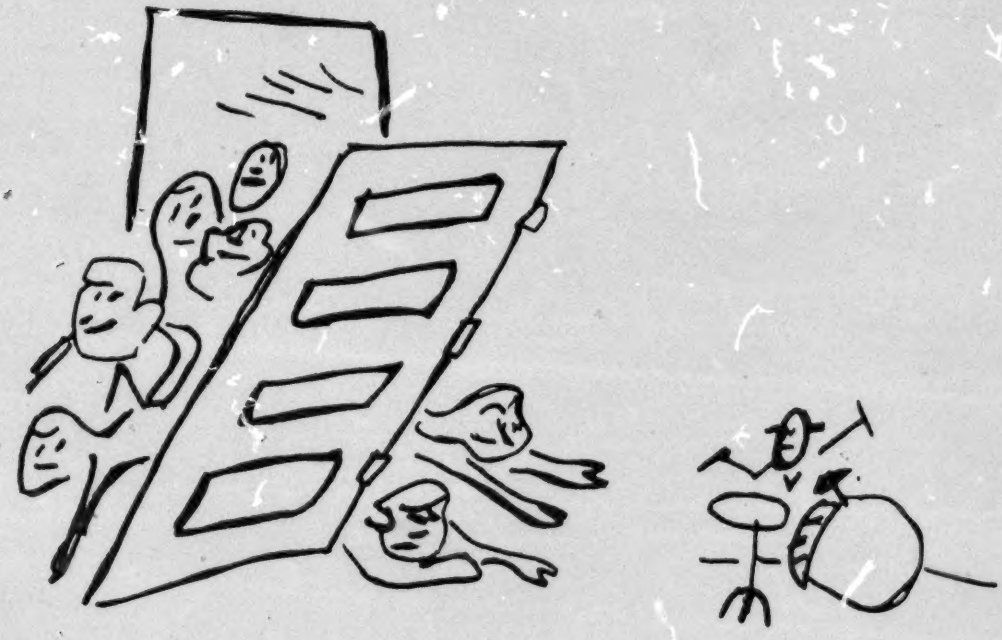
12. IS CRASHING A PARTY LEGAL IF YOU DO NOT CREATE A DISTURBANCE ?

NO

Even if you do not harm anything, but you enter a home UNINVITED - it makes you a trespasser.

If you enter a vacant building or field without the owner's permission...it's a no no.

TRESPASSING CARRIES A FINE OR JAIL

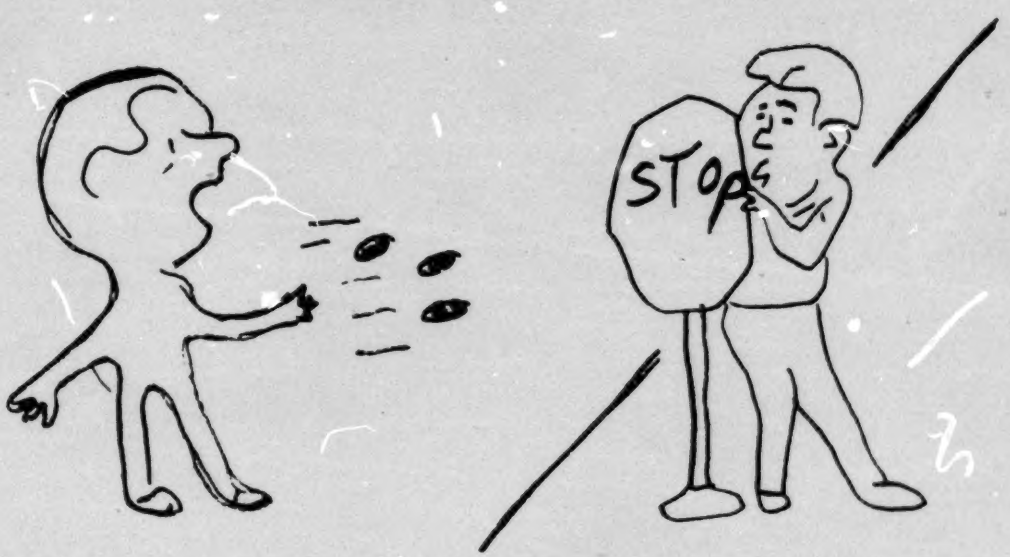


13. IF YOU STAND ON YOUR OWN PROPERTY AND THROW STONES ACROSS THE PROPERTY OF ANOTHER PERSON ARE YOU TRESPASSING ?

YES

You can also trespass by throwing or dumping garbage, etc... on property, or by throwing stones, firing a B B gun across his property.

Even if the stones do not touch his property, and you never enter upon the property, it is trespassing because - you are interfering with the use of his property.



14 CAN YOU ALONE ARREST A PERSON COMMITTING A CRIME ?

YES

A person in absence of a police officer may make an arrest for a FELONY, COMMITTED IN HIS PRESENCE .

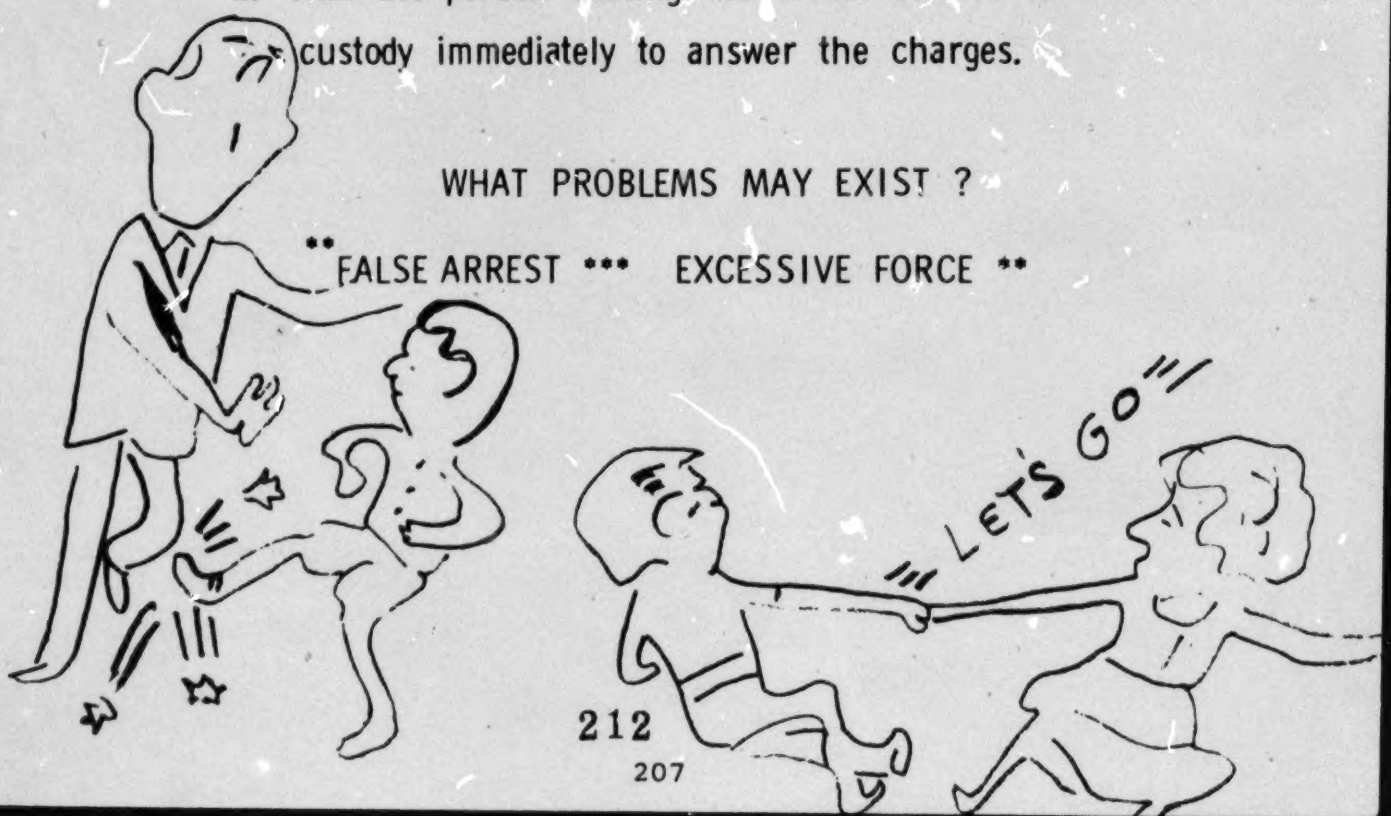
A CITIZENS ARREST may be made by :

1. Informing the person arrested he has committed the specific crime.

2. That the person making the arrest desires to take him into custody immediately to answer the charges.

WHAT PROBLEMS MAY EXIST ?

** FALSE ARREST *** EXCESSIVE FORCE **



15. DO THE EARNINGS OF A JUVENILE LIVING WITH HIS PARENTS BELONG TO THE STUDENT ?

NO

The earnings of a Juvenile or a MINOR (under 18) living with his parents - belong to the parents.

Even if you leave home you are legally under the support and protection of your parents until you reach 18.

THIS MEANS- your parents can go to your employer and collect your money. If your boss refuses, he could get in trouble.

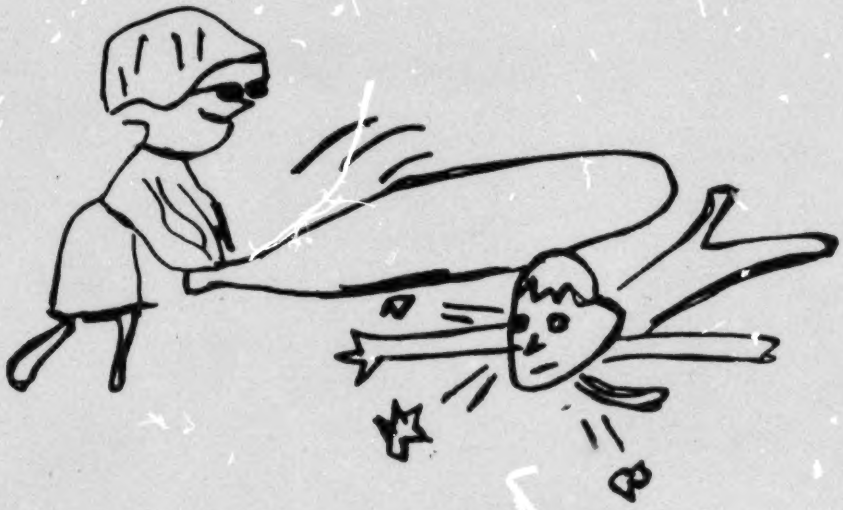
16. DOES THE TEACHER HAVE THE LEGAL RIGHT TO LAY A HAND ON A STUDENT ?

YES

Teachers or principals may administer punishment to any student who disobeys school rules.

THE STATE LAW - NOT PARENTS grant authority for controlling conduct of that student to prevent interference with other students while in school.

In school the teacher is IN LOCO PARENTIS (In place of the Parents) and thus can use reasonable discipline.



17. IS HARASSING OF A NEW STUDENT LEGAL ?

NO

Initiating a person into a student organization that is likely to cause harm , or does cause physical harm is illegal and punishable .

Also any act that tends to injure , degrade or disgrace a fellow student may be punishabie.

WHAT ARE THINGS THAT OTHER STUDENTS DO ?

18. CAN A 14 YEAR OLD STUDENT STAY OUT UNTIL 1:00 A.M. SATURDAY NIGHT ?

NO

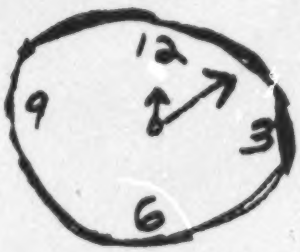
STATE CURFEW LAW

YEARS 0 - 11 : off streets from 10 P.M. to 6 A.M.

YEARS 12 - 16 : off streets from 12 Midnight to 6 A.M.

In By 12:00"

Curfew law includes -



Unlawful to loiter, idle, congregate, or otherwise be in any public property, street, highway, alley, park, or any public place, EXCEPT when accompanied by a parent, guardian or some adult.

Punishable by fine and - or jail. Police usually call your parents and have them come to the police station to pick you up.

19. CAN SKIPPING SCHOOL EFFECT YOU AFTER YOU GET OUT OF SCHOOL ?

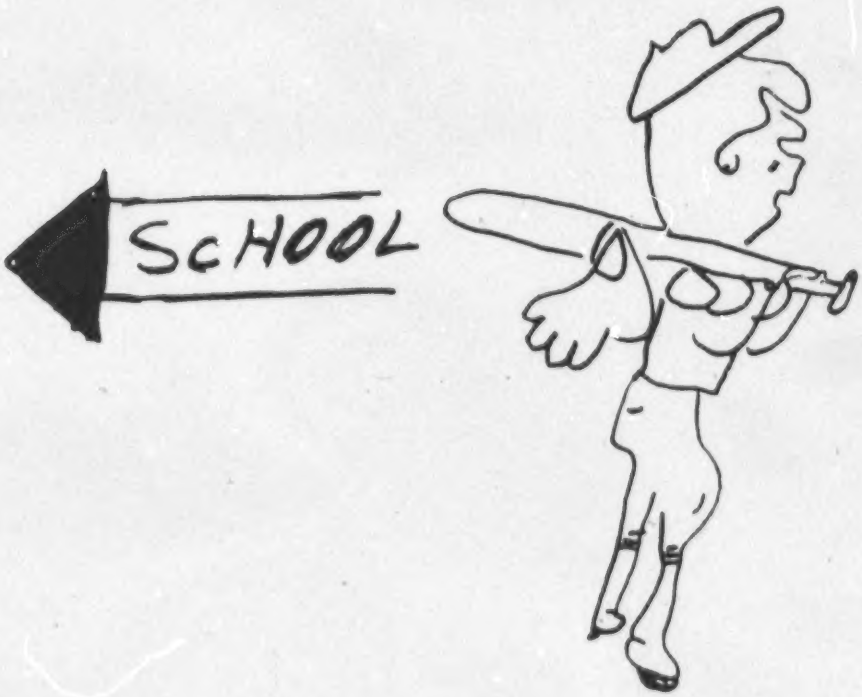
YES

Skipping school is called TRUANCY

When the attendance officer calls home to find out if you are really sick - it's his duty.

EMPLOYERS often check your attendance record.

They do not want a part time employee.



20. CAN A JUVENILE GO TO THE STORE AND BUY CIGARETTS FOR HIS PARENTS ?

NO

Any person who sells or gives cigarettes to a minor under 17 years UNLESS UPON WRITTEN ORDER OF THE PARENT OR GUARDIAN OF THE MINOR - shall be guilty of a misdemeanor.

$ 5.00 to $ 50.00 / 10 days jail

You MUST be 18 to smoke in any public place.

VENDING MACHINES ? NO

Owner can be fined if he permits minors to buy from machines.

21. CAN A 13 YEAR OLD RECEIVE A WORK PERMIT ?

NO

NO work permit can be issued to a minor under 14.

The work permit is issued by the proper school official.

The permit is limited to a named employer, and it is issued in the DISCRETION of the school official.

CAN IT BE REVOKED ?

YES, for good reason, such as, the job results in failure of the student to perform his school work, or that the work is unduly hazardous, or injurious to the health or morals of the child.

22. CAN A 14 YEAR OLD RECEIVE A DRIVERS LICENSE ?

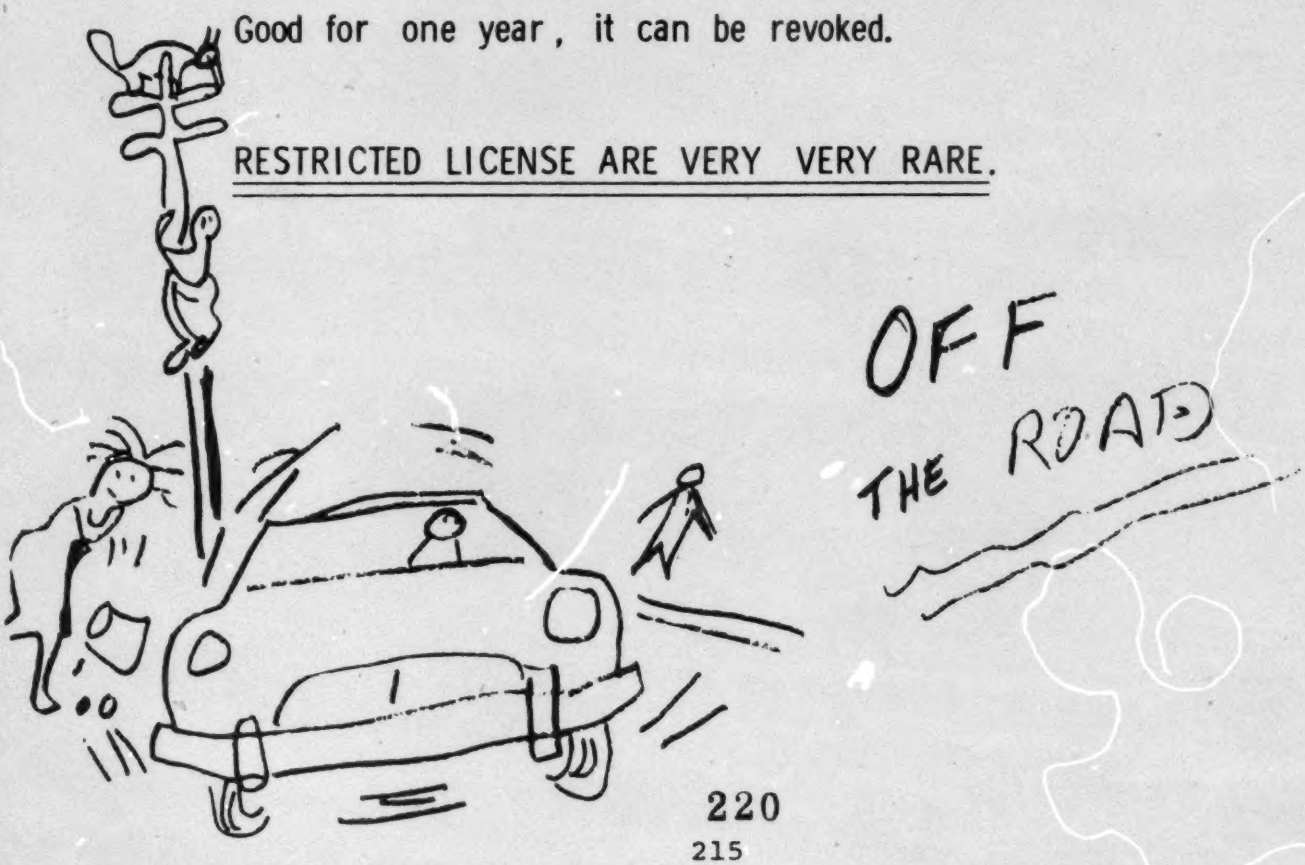
YES

A minor under 18 shall not be issued a drivers license unless he has passed a drivers education course and exam.

A minor 14 - 16 may receive a RESTRICTED LICENSE issued for special reasons, and with conditions limiting driving hours, and have the purpose for which the vehicle is to be driven.

Good for one year, it can be revoked.

RESTRICTED LICENSE ARE VERY VERY RARE.



23. DO JUVENILES HAVE THE SAME RIGHTS AS DO ADULTS IN A COURT OF LAW ?

YES

In 1966 The U. S. Supreme Court in a Land Mark case, IN RE GAULT, stated that juveniles have the main essentials of DUE PROCESS :

1. Written notice of charges , or Notice given to parents.

2. Notice of right to be represented by counsel.

3. No self incrimination. (5 th)

4. Right of cross examination and confrontation of accusers

24. IF YOU TAKE A BIKINI FROM A STORE HAVE YOU COMMITTED THE CRIME OF LARCENY ?

YES

MANY PEOPLE THINK OF IT AS " SHOPLIFTING " but legally, it is called LARCENY IN A BUILDING.

There is also LARCENY OVER $100.00 and LARCENY UNDER $100.00

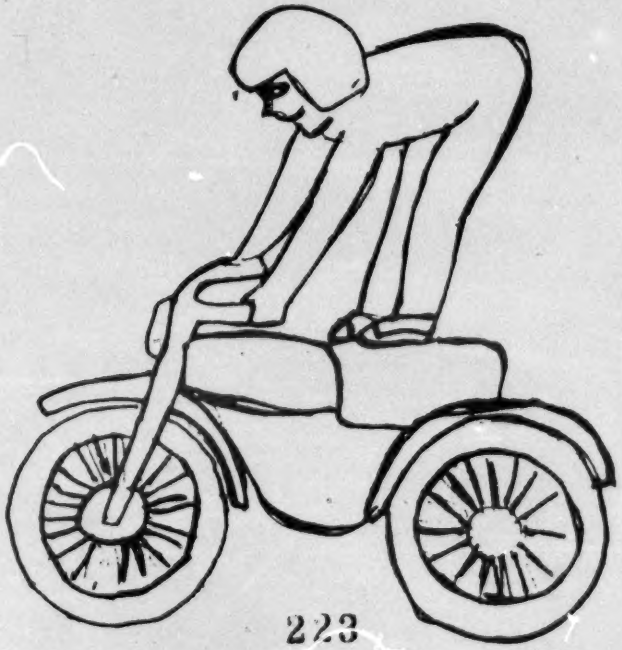
If you pick a pocket, but no money is inside, is it still LARCENY ?

YES - you intended to do it.

25. CAN A 14 YEAR OLD RIDE HIS MINI - BIKE IN THE STREET ?

NO

You must be 16 years old. Your bike Must have a horn, lights, brakes, etc., and be licensed by the State.

You can ride on private property at <u>any</u> age, with the permission of the owner.

Your mini - bike may be impounded if you break the law.